2485

SUPREME COURT OF THE UNITED STATES.

No. 60.

THOMAS J. AND WM. COGGESHALL, AND COOK BORDEN, APP'TS,

vs.

JAMES HARTSHORN AND WINSLOW AMES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF MASSACHUSETTS.

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UNITED STATES OF AMERICA
Mass. Dist., ss:

October Term, 1855.

At a Circuit Court of the United States for the First Circuit, begun and holden at Boston, within and for the District of Massachusetts, on Monday the fifteenth day of October, in the year of our Lord one thousand eight hundred and fifty-five, before the Honorable Benjamin R. Curtis, Associate Justice, Peleg Sprague, District Judge, James Hartshorn *& al.*, in Equity, *versus* Thomas F. Coggeshall *& als.*

The bill of complaint in this cause was filed in this Court on the 16th day of April, A. D. 1850, and is in the words and figures following, to wit:—

To the Judges of the Circuit Court of the United States for the District of Massachusetts:—

James Hartshorn and Winslow Ames, of Nashua, New Hampshire, citizens of the State of New Hampshire, bring this their bill against Thomas J. Coggeshall and William Coggeshall, of Fall River, in Massachusetts, citizens of the State of Massachusetts, and Cook Borden, of Tiverton, in the State of Rhode Island, a citizen of the State of Rhode Island.

And thereupon your orators complain and say, that they are co-partners in the business of stove dealers and tin-plate workers, in said Nashua, New Hampshire, under the style and firm of Hartshorn & Ames.

That on or about the first day of January, in the year 1849, being co-partners as aforesaid, they entered into an agreement with one Annes A. Lincoln, of Norton, in the County of Bristol, in the said State of Massachusetts, iron founder, by which the said Lincoln did agree for a valuable consideration to take a set of wood patterns furnished by your orators, of a certain stove, called, and having inscribed thereon the following words, letters, and figures, to wit: "Air Tight, 1849. The Granite State Stove, made by Hartshorn & Ames, Nashua, N. H.;" which said wood patterns, so made, were the exclusive property of your orators, and were of great value to your orators.

That it was at the same time further agreed by and between your orators and the said Lincoln, that he should, upon the receipt of the said wood patterns, make for your orators, at his foundry, in said Norton, from the said wood patterns, a set of iron patterns such as are used by iron founders for casting stoves, which said iron patterns were to be the exclusive property of your orators.

That it was then and there further agreed by and between your orators and the said Lincoln, that he would make and deliver to them, from the said iron patterns, on or before the 1st day of August, 1849, five hundred stoves, to be made at his said foundry in Norton, to be called and lettered, and have inscribed thereon, the following words and figures, to wit: "Air Tight, 1849. The Granite State Stove, made by Hatshorn & Ames, Nashua, N. H.;" which said stoves were to belong exclusively to, and to be sold by your orators.

That there was at the same time a further agreement between them and the said Lincoln, that he should make and deliver to them five hundred other stoves, of the same style and pattern in all respects, and with the same words and letters, should your orators require them, within the year beginning January 1st, 1849, and ending January 1st, 1850.

That it was then and there further agreed by and between your orators and the said Lincoln, that he, the said Lincoln, as a further consideration for filing and fitting up the said iron patterns, should have the right to make and sell on his own account and for his own benefit, during one year from the 1st of January, 1849, any of the said stoves, in the said County of Bristol, and in the City of Providence, in the State of Rhode Island, and to place upon the said stoves so to be made by him as aforesaid, the words and figures, "Air Tight, 1849. The Granite State Stove, made by A. A. Lincoln, Norton Furnace," or words to that effect.

That in pursuance of the said agreement, the said Lincoln did take the said wood patterns and make the said iron patterns for your orators at said Norton, intending to fulfil his said contract with your orators, and faithfully to act and do in all things in the premises as the agent, servant, and trustee of your orators, which said iron patterns, so made for your orators, were of great value to your orators.

And your orators, further complaining, show unto your Honors that they are informed, and believe it to be true, and therefore charge, that on or about the first day of July, 1849, the said Lincoln, finding that he should not be able to fulfil his said contract with your orators, by making the said five hundred stoves at his said furnace in Norton, on or before the said first day of August, 1849, did thereupon agree with Thomas J. Coggeshall, then of Taunton, in said Bristol County, with whom the said Lincoln had had for a year previously some connexion in business at his said furnace in Norton, that the said Thomas J. should take the said wood patterns and the said iron patterns of your orators, then in the possession of the said Lincoln, and carry the same to Fall River, in said Bristol County, to be used by the said Thomas J. and others, as the agents, trustees, and servants of your orators, in manufacturing stoves for your orators, in pursuance of the agreement between your orators and the said Lincoln. All of which doings and things your orators well knew and consented to.

That thereupon the said Thomas J., as the trustee, agent, and

servant of your orators, did take the said wood patterns and iron patterns of the said stove, called and lettered as aforesaid, from the said foundry of the said Lincoln, and carry the same to a certain furnace or foundry in Fall River, known as the "Fall River Foundry," and did then and there, with others, he and they being the servants, agents, and trustees, of your orators, commence to make said stoves from said patterns, in pursuance of the agreement between your orators and the said Lincoln. All of which matters and things, doings and actings, were well known to your orators, who consented thereto.

And your orators, further complaining, show unto your Honors that the said Thomas J. well knew the nature of the agreement between your orators and the said Lincoln, and did then and there adopt and ratify the same, as the servant, agent, and trustee of your orators.

And that your orators, well knowing the premises, did then and there recognize, adopt, and approve all the doings and actings in the premises, of the said Lincoln and the said Thomas J., thereby adopting, recognizing, and acknowledging the said Thomas J. as the agent, servant, and trustee of your orators in the premises.

And your orators, further complaining, show unto your Honors that they are informed, and believe it to be true, and therefore charge, that the said Thomas J. did thereupon associate himself with one William Coggeshall, of said Fall River, and one Cook Borden, of Tiverton, in the State of Rhode Island, doing business in said Fall River, co-partners under the style and firm of Cook Borden & Co., and with other persons to your orators unknown (but whose names, when known, your orators pray may be inserted herein, with apt words to charge the same), in the manufacture of the said stoves, from the said patterns, in pursuance of the said agreement, trust, and relation between the said Thomas J. and your orators.

And your orators, further complaining, show unto your Honors that they are informed, and believe it to be true, and therefore charge, that the said William Coggeshall, Cook Borden and others, well knew the agreement, trust, and relation between your orators and the said Lincoln, and between the said Lincoln and the said Thomas J., and between your orators and the said Thomas J., and consented thereto, and adopted the same, thereby making themselves, and each of them, the servants, agents, and trustees of your orators in the premises.

And your orators show unto your Honors that they well knew all the doing and actings of the said Thomas J., and the said William, and the said Cook and others, in the premises, and did adopt, ratify, and acknowledge the same, consenting that the said Thomas J., William, Cook, and others, should become the agents, servants, and trustees of your orators in the premises.

And your orators, further complaining, show unto your Honors that the said defendants did, in pursuance of the said agreement,

take and use the said wood and iron patterns so belonging to your orators, and undertake to comply with and fulfil the said agreement between your orators and the said Lincoln, as the agents, servants, and trustees of your orators in the premises.

That they are informed, and believe it to be true, and therefore charge, that the said defendants, in pursuance of the said agreement, did at sundry times thereafter, and as their occasions might require, take off, copy, and make certain iron castings from the said wood patterns of your orators, to be used to supply any deficiencies or imperfections in the full set of patterns so to be made, or which had been made by the said Lincoln for your orators, in pursuance of the agreement aforesaid.

That in pursuance of their said agreement with your orators, the said defendants did thereafter and thereupon make and deliver to your orators a number of said stoves, from said patterns and castings, to wit, about one hundred, on or about the first day of September, 1849, and have since that time made and delivered to your orators, under said agreement, a large number of said stoves, to wit, about eight hundred.

But your orators show unto your Honors that the said Lincoln did not make and deliver to your orators the said number of five hundred stoves, as by his said agreement he was bound to do, on or before the first day of August, 1849; of which failure to make and deliver your orators do not here complain.

Nor did the said defendants, or either of them, as the agents and servants, and trustees of your orators in the premises, make and deliver to your orators the said number of stoves as aforesaid; of which said failure to make and deliver your orators do not here complain.

And your orators, further complaining, show unto your Honors, that the said defendants have not made and delivered to your orators the said one thousand stoves, according to the said agreement which these defendants adopted and undertook to perform within one year from the first of January, 1849, and still withhold about two hundred of the said stoves, and have neglected and refused to make and deliver the said last mentioned stoves, though often solicited so to do, by frequent letters from, and by the personal requests of your orators.

And your orators, further complaining, show unto your Honors, that it was the express understanding and agreement by and between your orators and the said Lincoln, at the time of the making of the said contract and agreement with your orators, that at the expiration of the said year 1849, the said Lincoln should deliver up, and cause to be delivered up to your orators, the said wood patterns and the said iron patterns, and any and all wood and iron patterns and copies made from the said patterns of your orators, or which might in any way belong to the stove of your orators.

Which said agreement your orators, further complaining, charge

that said defendents, as the agents, servants, and trustees of your orators as aforesaid in the premises, well knew and consented to.

And your orators, further complaining, show unto your Honors that it was expressly agreed and understood by and between the said Lincoln and your orators, at the making of the said contract, that he, the said Lincoln, should not copy, or cause to be copied, except as is hereafter mentioned, either in wood or iron, or in any substance or thing, the said wood patterns, or the said iron patterns of your orators; but should deliver up the same, whole and entire, to your orators, with everything belonging thereto, at the expiration of the said year from the first of January, 1849.

Which said agreement your orators, further complaining, charge that these defendants, as the agents, servants and trustees of your orators as aforesaid in the premises, well knew and consented to.

And your orators, further complaining, show unto your Honors that it was at the same time further agreed and understood by and between the said Lincoln and your orators, that the said Lincoln should not make, or cause to be made, after the expiration of the said year 1849, except as is hereafter stated, any of the said stoves, except for your orators, and at the request of your orators, and that all stoves so made, after the expiration of the said year 1849, should be lettered and known, and have inscribed upon them the words and letters as follows: "Air Tight. 1849. The Granite State Stove, made by Hartshorn & Ames, Nashua, N. H."

Which said agreement your orators, further complaining, charge that these defendants, as the servants, agents and trustees of your orators in the premises well knew, consented to and adopted.

And your orators further show unto your Honors, that since the expiration of the year 1849, and about four weeks since, they proceeded to the said Foundry in Fall River, and took away the said wood patterns of the said stove so made for them by the said Lincoln, and so delivered by him to the said Thomas J., and these defendants, as the servants, agents and trustees of your orators, as your orators had good right to do; and further, at the same time, demanded of these defendants all the iron patterns so made by the said Lincoln for your orators, and by him so delivered to the said Thomas J. and these defendants, as aforesaid, together with all iron and wood patterns, of and concerning the said stove, which might have been at any time made by the said defendants.

But your orators, further complaining, show unto your Honors, that the said defendants absolutely and peremptorily refused to deliver the same, and any of them, to your orators.

And your orators, further complaining, show unto your Honors, that they are informed and believe it to be true, and therefore charge, that while the said wood patterns and the said iron patterns of your orators, as aforesaid, were in the possession of these defendants, servants, agents, and trustees of your orators as aforesaid, and for the purposes aforesaid, they, these defendants, did make and

cause to be made, and now have, certain copies in iron and wood of the said wood patterns, and certain copies in iron of the said iron patterns of the said stove and patterns, with which said copies of said patterns, and with the said patterns, so unjustly procured, and withheld from your orators, they, the said defendants, have made, are now making, and do further intend and threaten to make other stoves, of great value, to be known, and which are known, and called, marked, and lettered, and having the words, figures, and letters inscribed thereon, as follows, "Air Tight. 1849. The Granite State Stove," or words to that effect, corresponding with, and similar to the said stoves marked, lettered, and inscribed, "Air Tight. 1849. The Granite State Stove," so made, and to be made exclusively for your orators, by the said Lincoln, and by the said defendants, as the servants, agents, and trustees of your orators; from the sale and manufacture of which said stoves these defendants are making, have made, and intend further to make great profits, to the damage of your orators.

And your orators, further complaining, show unto your Honors, that they are informed, and believe it to be true, and therefore charge, that the said wood patterns, and the said iron patterns, so taken off, copied, and made from the said wood and iron patterns of your orators, by the said defendants, are with very slight if any alterations, precisely like the said patterns of your orators, so made, as aforesaid, by the said Lincoln, for your orators, and so delivered by him to the said Thomas J., and to the said defendants—and like the said patterns so made for your orators by these defendants, to supply any defects or imperfections in the patterns made by the said Lincoln, as aforesaid.

That the said patterns so made by these defendants have upon them the trade marks of your orators, to wit, the words "Air Tight. 1849. The Granite State Stove;" and that, instead of the words, "Made by Hartshorn and Ames, Nashua, N. H.," have been substituted by these defendants the words as follows, to wit, "Made by Fall River Foundry," and other words to your orators unknown.

All which actings and doings your orators, complaining, show unto your Honors are contrary to the agreement made by and between your orators and the said Lincoln, and by these defendants adopted and consented to—as the servants, agents, and trustees of your orators—and contrary to equity and right, and tend to the manifest wrong and injury of your orators in the premises.

And your orators further show unto your Honors, that the said permission, so granted by your orators to the said Lincoln, to make and sell certain of the said stoves for his own use and profit, within and for the said County of Bristol, and in the City of Providence, in the State of Rhode Island, was a personal privilege to the said Lincoln, and was granted to him by your orators for a certain consideration, as aforesaid, which said consideration did not move from or towards these defendants.

And your orators further show unto your Honors, that the said permission was given to the said Lincoln for one year only, from the said first day of January, 1849, and did not extend beyond that time to the said Lincoln.

And your orators further show unto your Honors, that at the time of the making of the said agreement with the said Lincoln, there was a further conversation between them and the said Lincoln, to the effect that if the said Lincoln should in all respects comply with his said agreement, and should desire to take off and copy a set of patterns from the patterns of your orators, at the expiration of the term of the contract, to wit, about January first, 1850, he, the said Lincoln, should be at liberty so to do, provided he and your orators should agree upon the price to be paid for said patterns, so copied and taken off. But your orators show unto your Honors that nothing definite was agreed upon in regard to the same.

And your orators further show unto your Honors, that they have bought in and resumed whatever rights said Lincoln might have had by and under the said agreement, or supposed agreement, and that this contingent right was never transferred by your orators, or the said Lincoln, to the said Thomas J., or to these defendants.

And your orators further show unto you Honors, that it was never understood by the said Lincoln, or by your orators, that the said right should ever be transferred to, or belong to, these defendants.

And your orators, further complaining, show unto your Honors, that by their said agreement with the said Lincoln, the said Lincoln became and was the servant of your orators, and took the patterns of your orators as aforesaid, and made the patterns as aforesaid, as the especial and confidential agent and servant of your orators, agreeing to keep and preserve the same, as the trustee of your orators, and to make and deliver to your orators, and to no other persons, and for their sole use, benefit, and behoof, the said stoves from the patterns of your orators.

That the said defendants took upon themselves by their agreement with the said Lincoln and with your orators, all the duties and trusts of the said Lincoln, towards and with your orators, and became and were in all respects the agents, servants, and trustees of your orators in the premises, precisely, exactly, and absolutely, in all respects, as the said Lincoln was and had been.

And your orators, further complaining, show unto your Honors that the said defendants have derived and obtained all their knowledge, information, and skill of and concerning the said stoves, from, by and under their said agreement with the said Lincoln and your orators, and from their said relation of agents, servants, and trustees of your orators, and are now possessed of the said patterns, and are now making, and intending to make the said stoves, under and by virtue of their said agreement and of their relation aforesaid.

And your orators, further complaining, show unto your Honors, that the said defendants, by their actings and doings as aforesaid,

in making the said stoves, after the expiration of the year 1849, and in withholding the said patterns from your orators, and in making, or causing to be made, other patterns, and in putting upon the said patterns, and upon the stoves so made from them, the trade marks of your orators as aforesaid, are acting contrary to equity and right in the premises, and in violation and breach of their duty to your orators, as their servants, agents, and trustees, and to the manifest injury and wrong of your orators in the premises.

To the end, therefore, that the said defendants may, if they can, show why your orators should not have the relief hereby prayed, and may upon their several and respective corporal oaths, and according to the best and utmost of their several and respective knowledge, remembrance, information, and belief, full, true, direct, and perfect answer make to such of the several interrogatories hereinafter numbered and set forth, as by the note hereunder written, they are respectively required to answer; that is to say:—

Interrogatories.

1. Whether the said Annes A. Lincoln did not, on or about the first day of January, 1849, agree with your orators to take their set of wood patterns and make from them a set of iron patterns, as is above stated?

2. Whether the said Lincoln did not agree to deliver to your orators five hundred stoves on or before the first day of August, 1849, as is above stated?

3. Whether the said stoves and the said patterns were not to be marked, lettered, and inscribed, as is above stated?

4. Whether they were not to be the exclusive property of your orators, and would be of great value to your orators, as is above stated?

5. Whether the said Lincoln did not agree to make a set of iron patterns, to be the exclusive property of your orators, as is above stated?

6. Whether the said Lincoln did not agree to make and deliver to your orators five hundred stoves, on or before the first day of August, 1849, at his furnace in Norton, as is above stated?

7. Whether the said stoves were not to be marked, lettered and inscribed, as is above stated?

8. Whether the said Lincoln did not at the same time agree to deliver five hundred other stoves, as is above stated, within the year 1849?

9. Whether it was not agreed that the said Lincoln should have a right to make and sell said stoves, on his own account, in Bristol County, and in the City of Providence, during the year 1849, as is above stated?

10. Whether the said Lincoln did not make the said patterns intending to fulfil his agreement with your orators, and to act as the servant, agent and trustee of your orators, as is above stated?

11. And whether the said iron patterns, so made by said Lincoln, were not of great value to your orators, as is above stated?

12. Whether the said Lincoln did not make an agreement with Thomas J. Coggeshall, and whether the said Thomas J. did not carry the said patterns to Fall River, as is above stated?

13. Whether the said Thomas J. did not then and there, and thereby become the agent, servant, and trustee of your orators, as is above stated?

14. Whether your orators did not know and consent to the said agreement between the said Lincoln and the said Thomas J., as is above stated?

15. Whether the said Thomas J. has not been connected in business with the said Lincoln, and did not know of the agreement between your orators and the said Lincoln and did not adopt and consent to the same, as is above stated?

16. Whether the said Thomas J. did not commence to make the said stoves for your orators, from the said patterns, at Fall River, as is above stated?

17. Whether your orators did not know, and consent thereto, as is above stated—thereby adopting, recognizing, and acknowledging the said Thomas J. as their agent, servant, and trustee, as is above stated?

18. Whether the said Thomas J. did not associate himself with William Coggeshall and Cook Borden (and others), and with whom, and which of them, in the manufacture of the said stoves, as is above stated?

19. Whether the said Cook Borden and William Coggeshall (and others), did not well know the agreement between your orators and the said Lincoln, and between the said Lincoln and the said Thomas J., and between your orators and the said Thomas J., and did not consent to and adopt the same, as is above stated?

20. Whether your orators did not know of the doings and actings of the said Thomas J. with the said William and Cook (and others), in the premises, and ratify and adopt the same, as is above stated?

21. Whether the said defendants did not take and use the said wood patterns, and the said iron patterns, both or either, and which of them, and undertake to comply with their agreement, as is above stated?

22. Whether these defendants did not take off, and make, and copy, certain iron castings, to be used to supply any deficiencies or imperfections in the patterns, as is above stated?

23. Whether the said defendants did not make and deliver to your orators about one hundred stoves, and how many, on or about the first day of September, 1849, and when, as is above stated?

24. Whether the said defendants have since made and delivered to your orators about eight hundred stoves, as is above stated, and when, and how many?

25. Whether the said Lincoln did not fail to make and to deliver to your orators five hundred stoves, on or before the first day of August, 1849, as is above stated?

26. Whether the said defendants did not fail to make and deliver to your orators the said number of five hundred stoves, on or before the first of August, 1849, as is above stated?

27. Whether these defendants have not failed to deliver to your orators the said one thousand stoves, within the year 1849, and whether they do not withhold about two hundred of the said stoves, and whether they have not neglected and refused to deliver the same, though requested, as is stated above?

28. Whether it was not agreed between your orators and the said Lincoln, that, at the expiration of the year 1849, he would deliver up, or cause to be delivered, to your orators, any and all of the said wood and iron patterns, and copies, belonging to your orators, or in any way connected with the said stove, as is above stated?

29. Whether the said defendants did not know of the said agreement, and consent thereto, as is above stated?

30. Whether it was not agreed between your orators and the said Lincoln, that the said Lincoln should not copy, or cause to be copied (except as is mentioned in the said bill), either in wood or iron, or in any substance, the said wood patterns, or the said iron patterns, but should deliver up the same to your orators, as is above stated?

31. Whether these defendants did not well know and consent to the said agreement, as is stated above?

32. Whether it was not agreed between your orators and the said Lincoln, that he should not make, or cause to be made, after the expiration of the year 1849 (except as is stated in this bill), any of the said stoves, except at the request of your orators, and that all stoves so made should be lettered, known, and inscribed with the words and letters "Air Tight, 1849. The Granite State Stove, made by Hartshorn & Ames, Nashua, N. H.," as is stated above?

33. Whether these defendants did not know, and consent to, and adopt the said agreement, as is stated above?

34. Whether your orators did not go to the foundry in Fall River, and take away the said wood patterns, and demand all the iron and wood patterns, as is stated above?

35. Whether these defendants did not refuse to deliver the same, as is stated above?

36. Whether these defendants have not made, or caused to be made, and now have, certain copies, in iron or wood, of the said wood patterns, and certain copies in iron of the said iron patterns of the said stove and patterns, and whether they are not now making, have made, and do further intend and threaten to make, other stoves, marked, lettered, and inscribed, known and called as follows: "Air Tight, 1849. The Granite State Stove," or words to that effect, as is stated above?

37. And what words were, and are, inscribed on the said patterns and the said stoves?

38. And how many stoves, marked and lettered as is stated in the said bill, these defendants have at any time made from any of the said patterns of the said stove, for your orators, and for other persons, these defendants and others?

39. And what is the profit upon each of the said stoves so made from the said patterns by these defendants, and sold to other persons than your orators?

40. Whether the said wood patterns, and the said iron patterns, so taken off, copied, and made from the said patterns of your orators by these defendants, are not like the said patterns made by the said Lincoln for your orators, as is stated above?

41. Whether the said patterns made by these defendants have not the trade-marks of your orators, as is stated above; and if any marks and words, what ones?

42. Whether certain words have not been substituted on the said patterns, as is stated above; and if any words, what words?

43. Whether the said permission, granted by your orators to the said Lincoln, to make and sell the said stoves, on his own account, in said Bristol County, and in the city of Providence, was not a personal privilege, and was limited to one year, as is stated above?

44. Whether there was not a further conversation between your orators and the said Lincoln, in regard to a set of patterns for his own use, as is above stated?

45. And whether the said conversation and agreement was not contingent and indefinite?

46. And whether the same was ever transferred to these defendants, as is above stated?

47. Whether the said Lincoln did not, by his said agreement with your orators, become the agent, servant, and trustee of your orators, as is above stated?

48. Whether the said defendants did not take upon themselves all the duties and trusts of the said Lincoln, and become the agents, servants, and trustees of your orators, as is above stated?

49. Whether these defendants have not derived and obtained all their knowledge and information of and concerning the said stoves, from, by, and under their said agreement with the said Lincoln and your orators, as is above stated?

50. Whether these defendants are not now possessed of the said patterns, and are now making, and intending to make, the said stoves, under and by virtue of their said agreement with your orators, as is above stated?

And that the said defendants may answer the premises, and that they may be decreed to account, and pay over to your orators, all such gains and profits as have accrued to them from using the said patterns, in making and selling the said stoves to other persons than your orators, and that they may be restrained by an injunction issu-

ing out of this Honorable Court, or issued by one of your Honors, according to the form of the statute in such case made and provided, from making or vending any one or more of the said stoves, substantially the same in its construction and shape as the said patterns of your orators; and that the said patterns, now in the possession of the said defendants, or under their control, may be delivered up to your orators; and for such further or other relief as the nature of this case may require, and to your Honors may seem meet.

May it please your Honors to grant unto your orators, not only a writ of injunction, conformable to the prayer of this bill, but also a writ of subpœna, directed to Thomas J. Coggeshall, William Coggeshall, and Cook Borden.

And commanding them, and each of them, to appear, and answer unto this Bill of Complaint, and to do, and receive what to your Honors shall seem meet.

WINSLOW AMES.

RUFUS CHOATE,
JOHN C. ADAMS,
of Counsel with the Plaintiffs.

Each of the defendants is also required to answer each of the above interrogatories, from No. 1 to No. 50, inclusive, separately.

JOHN C. ADAMS.

UNITED STATES OF AMERICA,
District of Mass., ss.

April 15th.

Then and there personally appeared the above named Winslow Ames, and made oath, that the foregoing bill, by him subscribed, is true so far as the things stated therein are within his own knowledge, and that he believes the same to be true, so far as they are stated on the information of others, without his own knowledge.

Before me, CHARLES SUMNER,
Commissioner.

The cause was thence continued to the May Term, 1850, when, to wit, on the 16th day of May, 1850, the following answers were filed by the respondents, viz:—

Answer of Thomas J. Coggeshall.

The several answer of Thomas J. Coggeshall, one of the respondents named in the bill of complaint of James Hartshorn and Winslow Ames, partners under the style of Hartshorn and Ames, against himself, William Coggeshall, and Cook Borden.

The said Thomas J. Coggeshall, now, and at all times hereafter, saving and reserving all manner of exception to the errors and

insufficiencies in the said bill contained, for answer thereunto, or to so much and such parts thereof as he is advised it is material for him to answer unto, answers, sets forth, and says, that during the years A. D. 1848 and 9, he assisted Annes A. Lincoln, of Norton, in transacting his financial and other business, and was, for his said services, to receive from said Lincoln a certain commission upon the amount of business transacted for him, by and through the agency of this respondent.

This respondent further says that, other than as aforesaid, he was in no way connected or interested in the business of said Lincoln, during said last mentioned times.

Said respondent says, that true it is he was present at the making of an agreement between the complainants and said Lincoln, by the terms of which the said complainants were to cause to be made patterns of wood for a stove, which was to be of three different sizes, and to be marked and lettered, as is first charged in complainants' bill, and was to deliver said patterns so made to said Lincoln, at his furnace in Norton.

This respondent alleges that said patterns of wood, so to be made and delivered to said Lincoln, were to be taken from, and to combine parts of two stoves, then in common use, with a hot-air cell, which was to be inserted in the front part of the stove, to be made to be taken from a third stove then in use.

This respondent further says, that said agreement was not entered into on the first of January, 1849, but was entered into on the nineteenth day of December, 1848.

This respondent further says, that from said patterns of wood, so to be made and delivered by the complainants to said Lincoln, the said Lincoln was to take certain copies thereof in iron, and from patterns of iron so taken was to make the said stoves, but not exclusively for said complainants, as is charged in said bill.

This respondent further says, that he then understood, and has since been frequently informed by said Lincoln and Winslow Ames, one of the complainants, that said patterns of iron were to be the sole and exclusive property of said Lincoln, and that said patterns of wood were to remain the sole and exclusive property of said complainants, and that, in case said stove should prove unsuccessful, that each should lose the cost in making their respective patterns.

This respondent further says, that it was not, at the time of the making of the said agreement, understood or agreed in his presence and hearing, that said Lincoln should, at any time, deliver any of the said patterns of iron so taken to said complainants, or that said Lincoln should not copy the same whenever he chose so to do, nor was there any agreement made in his presence in relation to the lettering of the said stoves to be made after January 1st, 1850.

This respondent further says, that it was agreed between said Lincoln and said complainants, that, in consideration of the furnishing of said wood patterns, by said complainants, said Lincoln was to

make and deliver to said complainants, in Boston, five hundred of said stoves, on or before the first day of July or August, A. D. 1849, of which he has a memorandum, which is now misplaced, at four cents per pound, a price below the then market price for such stoves. It was also then agreed that, if the complainants could sell the same, the said Lincoln was afterwards, and during the year ending January 1st, A. D. 1850, to deliver and furnish to said complainants, as aforesaid, at the price aforesaid, five hundred more of said stoves.

This respondent further says, to prevent competition in the market between the parties to said agreement, it was agreed by said parties, that said complainants should not sell the stoves sold and delivered to them by said Lincoln, in the county of Bristol, in Massachusetts, or in the city of Providence, in the State of Rhode Island, or in the State of Connecticut, and that said Lincoln should not sell any stoves that he might manufacture other than for the complainants, in the city of Boston, or its vicinity, or in the States of Maine and New Hampshire. The territory in which each was to sell, he did not understand to be otherwise definitely defined.

This respondent further says, that, at different times during the months of March, April, May, and June, A. D. 1849, in pursuance of said agreement, said complainants delivered to said Lincoln the various parts of said patterns of wood, and as they were received by said Lincoln, he entered upon the work of taking therefrom said patterns of iron, whereupon it was found by said Lincoln that parts of said patterns of wood were so imperfectly made, that it was necessary that they should be reconstructed or altered, which was done before said stoves could be manufactured.

This respondent further says, that said Lincoln met with much embarrassment in making the said patterns of iron, and in the manufacture of said stoves; and such was his want of success therein, that on or about the first day of July, 1849, said Winslow Ames expressed to this respondent his apprehension that said stoves would not be successfully manufactured by said Lincoln.

This respondent further says, that up to the first of July, 1849, Lincoln had succeeded in manufacturing not more than thirty-five of said stoves, which were exceedingly imperfect, both in construction and finish.

This respondent admits, as is charged in said bill, that on or about the first day of July, 1849, the said Lincoln found that he should not be able to fulfil his contract with the complainants, to deliver them five hundred stoves, on or before the first day of July or August, 1849, but denies that said Lincoln entered into any agreement with this respondent to manufacture said stoves, either by himself, or with other persons, for said Lincoln, or to manufacture them as the agent, trustee, or servant of the said complainants. But this respondent alleges, that early in the month of July, A. D. 1849, he met the said Ames, and the said Lincoln, in Norton, when it was charged by the said Ames, and conceded by the said Lincoln, that it

was impracticable, if not impossible, for said Lincoln, as he was then situated, to properly manufacture said stoves at Norton.

This respondent further alleges, that, after the interview in Norton, he met said Ames at the dwelling-house of this respondent, in Taunton, and there had a conversation with him, in relation to the manufacture of said stoves, in which conversation this respondent informed the said Ames about the Fall River Foundry, then, and now owned by William Coggeshall and Cook Borden, and how that the same was unoccupied, and that the owners of said foundry could command sufficient capital to operate the same, and that this respondent thought that a contract might be made with said William and Cook, to manufacture said stoves for the complainants, if said complainants wanted a sufficient number thereof to be a sufficient inducement for said William and Cook to put said foundry in operation. Said Ames then informed this respondent that the complainants would want a thousand stoves, and that they would take that number, or thereabouts, as soon as they could be manufactured, providing the stoves should be well made, and should not cost more than four cents per pound; and the said Ames then desired this respondent to see said William and Cook, and to make an arrangement, by which the manufacture of the said stoves could be facilitated, if this respondent could agree with said Lincoln to abandon his said contract, which it was then understood, and by said Lincoln had been conceded, that he could not fulfil. It was also agreed and understood between said Ames and this respondent, that if a contract could be entered into with said William and Cook to manufacture said stoves, that the said complainants should sell said stoves in the markets where they might sell them by the terms of their said contract with said Lincoln, as is herein before set forth, and that said respondents might sell the stoves that they manufactured other than for said complainants, in the market where, by the terms of said contract, as herein before set forth, the said Lincoln might make sale of such stoves; whereupon this respondent had an interview with said William and Cook, in which he ascertained from them, that they would put their foundry in operation, and would manufacture said stoves, for said complainants, at the price aforesaid, provided that this respondent would render them his personal services in carrying on the said foundry, and that he would take, for his said services, so to be rendered, the one-half of the net profits arising from the manufacture of said stoves. This respondent alleges, that subsequently to the interview with the said William and Cook, he had an interview with said Lincoln, and agreed with the said Lincoln, upon certain terms and conditions, to abandon his said contract with said complainants, and that he should sell, and the said William and Cook should buy the said patterns of iron, and that the said William and Cook should pay the said Lincoln, for said patterns, at a specified price, of which said agreement, between said Lincoln and the said William and Cook, the complainants were informed, and to which they assented.

Whereupon this respondent alleges, that said contract, between said Lincoln and said complainants, was abrogated, and a new contract, through the agency of this respondent, was entered into between said William and Cook and the said complainants.

This respondent further alleges, that it was not a part of the agreement of the said William and Cook, that they should take no copies from said patterns of wood or iron, or that they should at any time, surrender said patterns of iron to said complainants, or to any other persons.

This respondent further alleges, that he never at any time had any other or greater interest in the manufacture of said stoves, at the Fall River Foundry, that what is herein stated and set forth.

This respondent further alleges, that in pursuance of said agreement with said Lincoln, being the last of July or early in the month of August, 1849, said Lincoln forwarded said patterns of wood and said patterns of iron to the Fall River Foundry, at Fall River.

This respondent also alleges that there was not a complete set of said patterns of iron for all of the sizes of said stoves, inasmuch as this respondent is informed and believes but few of the patterns of iron for the largest size of said stoves had at that time been made.

This said respondent further alleges, that at the time said patterns were forwarded, in manner aforesaid, by said Lincoln, to the Foundry at Fall River, they were broken, imperfect, unfinished and unfitted for the purpose for which they were made. The castings for the tops, bottoms and sides of the stove were too heavy, while the castings for the inner parts of said stove were too light for a Cooking Stove. The joints were not properly fitted, but between them were left apertures through which a current of air was introduced into the stove, and thus materially affecting the practical utility of the article.

This respondent further alleges that said patterns, both of wood and iron, have been altered and improved, and the design of the said stove has been matured and carried out by the skill and labor of mechanics in the employ of said William and Cook, and that the said Ames had admitted to this respondent, that the success which has attended said stove in the market has been justly attributable to the skill and labor of said mechanics.

This respondent further alleges that there was not, as charged in complainants' bill, delivered to said complainants on or about the first of September, 1849, one hundred stoves, but that at that time there had been delivered by said respondents to the complainants but twenty-nine stoves.

This respondent further alleges, and answering, says, that between said first day of September, 1849, and the seventh day of May, 1850, at the several times named in the account hereto annexed and marked "A," they delivered to said complainants nine hundred and forty-one other stoves.

This respondent further alleges, that said respondents continued to manufacture for, and deliver stoves to, said complainants, as they could manufacture them, and as the complainants wanted them, until about the 10th of January, 1850.

This respondent further alleges, that it is not true, as charged in said bill, that said respondents agreed to deliver to said complainants one thousand stoves on or before the first day of January, 1850, nor is it true that the respondents were often solicited by the complainants to deliver them that number of stoves within said time; but on the contrary, this respondent alleges that said complainants desired these respondents by letters dated the 9th and 13th of November, 1849, not to deliver to said complainants any stoves after those times, unless they were expressly ordered to deliver them by the complainants, and that since those times these respondents have always been ready to deliver stoves to said respondents upon request, and have delivered stoves to them whenever they have been requested by said complainants so to do.

This respondent further alleges, that on the tenth day of January last past, said complainants and said respondents adjusted their accounts, and that this respondent from that time ceased to be in any way interested in the manufacture of said stoves, at said Fall River Foundry, or elsewhere.

This respondent alleges, that on said tenth day of January, 1850, another contract was entered into by and between said complainants and said William and Cook, by the terms of which the Fall River Foundry Company, a partnership of which the said William and Cook were the sole members, should furnish and deliver to the complainants, at a specified price, all of the said stoves which the said complainants should request them to furnish, on or before the first day of April, 1850.

This respondent also alleges, that up to this date (May 6th, 1850), said Fall River Foundry Company have been manufacturing, mounting, and delivering to said complainants, stoves under contracts entered into by said Fall River Foundry Company with said complainants.

This respondent further denies all knowledge in relation to the taking of the said patterns of wood from the said foundry of the respondents, or that a demand was made by said complainants upon the respondents for any of said patterns of iron; but this defendant has been informed that said complainants instituted a plea of replevin against the said William and Cook, and upon demand made by the officer charged with the service of the complainants' writ, the respondents delivered to said officer said patterns of wood, and at that time he was informed that said William and Cook caused to be shown to said officer and said Ames, said patterns of iron, which were forwarded by Lincoln to the Fall River Foundry, and that said William and Cook informed said complainant, Ames, that if said patterns of iron were removed by said officer from said Fall River

Foundry, they would be removed subject to all of the rights of the said William and Cook in the premises; whereupon this respondent was informed that said complainant and said officer elected not to remove said patterns.

This respondent further alleges that said William and Cook have since contracted with said complainants to furnish them two hundred and seventy stoves, which contract was made during the last week of March, 1850, and was being performed at the time of the filing of said bill. This respondent admits that according to his best knowledge and belief, the said respondents have manufactured and sold about eighty stoves other than to the complainants, and alleges that the stoves so sold to said other persons were marked and lettered as follows, to wit: "Air Tight. The Granite State Stove, 1849, made by A. A. Lincoln, Norton, Mass.," and some lettered "Air Tight. 1849. Made by the Fall River Foundry Company, Fall River, Mass."

This respondent admits that said Fall River Foundry Company intend to manufacture stoves other than those to be manufactured for the complainants, and upon which they, as this respondent is informed, intend to inscribe the words and letters following, to wit: "Air Tight. The Granite State Stove, made by the Fall River Foundry Co., Fall River, Mass."

This respondent denies that said words and figures are the peculiar trade marks of said complainants, and alleges that said respondents have the right to use said words and figures upon any of said stoves they may manufacture.

This said respondent makes answer to the several interrogatories proposed by the complainants, to which he has not already made answer, and all of said answers which he may so make to said interrogatories he makes with reference to what he has herein before stated in his general answers.

In answer to the 1st interrogatory, he says: Lincoln did agree with the complainants to take the patterns of wood, and make from these patterns of iron, which said patterns of iron were to be the exclusive property of Lincoln, and not of the complainants.

To the 2d interrogatory he answers: Yes, on the 1st day of July or August, A. D. 1849.

To the 3d he answers: Yes, as is stated in the answer.

To the 4th he answers: No; but they were to be the exclusive property of Lincoln.

To the 5th he answers: That he did not know, nor had he heard so until recently, when he was informed by Lincoln that complainants "were to have a set of patterns for said stoves at a reasonable" price.

To the 6th he answers by referring to his answer to the 2d interrogatory.

For answer to the 7th, he refers to his answer to the 3d interrogatory.

To the 8th he answers: Yes.

To the 9th he answers: Yes, as is stated in his general answer, but without any limit in time.

To the 10th he answers: He cannot swear what were the intentions of said Lincoln.

To the 11th he answers: The only agreement in relation to the subject within his knowledge is set forth in the general answer of this respondent.

To the 12th and 13th he answers: No.

To the 14th, he says there was no such agreement.

To the 15th he answers: He was connected in business, as is set forth in his general answer, and not otherwise; he knew of the agreement set forth in his answer, but knew of no such agreement as is set forth in the bill, nor did he assent to any such agreement.

To the 16th he answers: No, not otherwise than is set forth in his answer.

To the 17th he answers: They could not have done so.

To the 18th he answers: He was associated with Cook Borden and William Coggeshall, as he has set forth in his general answer, in the manufacture of said stoves, but in no other way than as is so set forth, and no other person besides himself was associated with said William and Cook in the manufacture thereof.

To the 19th he answers: He never knew or heard that said William or Cook knew or assented to any such agreement as is set forth in said bill.

To the 20th he answers: Complainants knew of the contract as set forth in his general answer, and assented thereto; they could have known of no such contract as is set forth in the bill.

To the 21st he says: Respondents did take, alter, repair, and use both said patterns of wood and said patterns of iron, and undertook and did comply with the agreement as it is set forth in the general answer of this respondent.

To the 22d he answers: Yes.

To the 23d he answers: Not one hundred, only twenty-nine.

To the 24th he answers: By referring to schedule "A."

To the 25th he answers: Yes.

To the 26th he answers: They made no such undertaking; respondents delivered no stoves to the complainants until August 24th, 1849.

To the 27th he answers: Respondents did not undertake to deliver that number within that time, nor did they so deliver, or refuse to deliver that number to the complainants.

To the 28th he answers: Never to his knowledge, and he denies that such was the fact.

To the 29th he answers: No.

To the 30th he answers: No.

To the 31st he answers: No.

To the 32d he answers: He knows of no such agreement; none such was made in his presence.

To the 33d he answers: No.

To the 34th he answers: He does not know, but has heard they took the wood patterns, and demanded the iron patterns that were carried from Norton.

To the 35th he answers: He does not know.

To the 36th he answers: They have such other patterns and copies: all the stoves respondents have manufactured have inscribed upon them the words named in said interrogatory; they have manufactured stoves bearing these different inscriptions, to wit: all, or nearly all that was manufactured for complainants had upon them the words, letters, and figures following, to wit: "Air Tight, 1849. The Granite State Stove. Made by Hartshorn & Ames, Nashua, N. H." All that were made for persons other than the complainants, had one of the following inscriptions thereon, to wit: "Air Tight, 1849. The Granite State Stove, made by A. A. Lincoln, Norton, Mass." "Air Tight, 1849. The Granite State Stove, made by the Fall River Foundry Company, Fall River, Mass." That they intend to make others of the said stoves, and to inscribe thereon the words and letters following, to wit: "Air Tight. Made by the Fall River Foundry Company, Fall River, Mass."

To the 37th, for answer, he refers to his answer to the last interrogatory.

To the 38th he answers: That the respondents have made and sold about ten hundred and fifty stoves, and that in his answer to the 36th interrogatory he set forth the different inscriptions upon said stoves.

To the 39th he answers: That he is now possessed of no data from which he could make a reliable estimate.

To the 40th he answers: They are somewhat like those made by Lincoln, yet there are several material improvements between the patterns as manufactured by Lincoln and those in use by the respondents.

To the 41st he answers: That he has already stated what marks and inscriptions are upon said stoves; but he denies they are the trade marks of the complainants.

To the 42d, for answer, he refers to his answer to interrogatory No. 36.

To the 43d he answers: That no such personal privilege was granted to said Lincoln, by the terms of any contract which was made in his presence.

To the 44th and 45th he answers: That he does not know; that he had never heard about any such conversation until in the month of March, A. D. 1850.

To the 46th he answers: That he never heard of any such privilege.

To the 47th he answers: That he knows of no agreement by which

said Lincoln was to become the agent, servant, or trustee of the complainants.

To the 48th he answers: No.

To the 49th he answers: No.

To the 50th he answers: That the respondents are possessed of said patterns of iron, and are now making, and intending to make, said stoves, not by virtue of any agreement with complainants, but on their own account and for themselves.

This respondent says that at the time of the filing of the said Bill of Complaint he was in no way interested in the manufacture of said stoves, nor has he been so interested in the manufacture thereof since before the 10th day of January, A. D. 1850. All which matters and things this respondent is ready and willing to aver, maintain, and prove, as this honorable Court shall direct; and he humbly prays to be hence dismissed with his reasonable cost and charge in this behalf, which he has most wrongfully sustained.

THOMAS J. COGGESHALL.

Answers of William Coggeshall and Cook Borden.

The joint and several answers of William Coggeshall and Cook Borden, partners under the firm and style of Cook Borden & Co., to the Bill of Complaint of James Hartshorn and another, against them and Thomas J. Coggeshall.

These respondents now, and at all times hereafter, saving and reserving to themselves, and to each of them, all right of exception to all manner of exceptions to all errors and insufficiencies in said bill contained, for answer thereto, unto so much and such parts thereof as they are advised that it is material for them to make answer unto, answer, set forth, and say—

That they were, in the months of July and August, 1849, the owners of the iron foundry in Fall River, known as the Fall River Foundry, and as such owners, in the month of July, A. D. 1849, they entered into a contract with the complainants, through the agency of Thomas J. Coggeshall (afterwards affirmed and assented to by said complainants), to manufacture three sizes of the stove described in the complainants' bill.

The terms of their said contract with the complainants were these, to wit: They were to manufacture for said complainants one thousand stoves, or thereabouts, at four cents per pound, and to deliver the same to the complainants in Boston.

It was also understood that said complainants and said respondents should not compete with each other in the sale of said stoves in the same markets; and to this end it was agreed that said complainants should not sell any of said stoves to be manufactured for them within the county of Bristol, in Massachusetts, or in the city of Providence in the State of Rhode Island, or within the State of Connecticut.

It was also agreed that these respondents should not sell any of said stoves in the city of Boston or its vicinity, or in the State of Maine and New Hampshire. The territory within which each should sell said stoves was not definitely defined.

These respondents deny that any agreement whatever was made between them and said complainants, either directly or indirectly, which related to, or in any way connected itself with, the patterns for the said Granite State or any other stove.

These respondents further allege that they purchased the patterns of iron from which they were to manufacture said stove of one Annes A. Lincoln, of Norton, through the agency of their co-respondent, the said Thomas J. Coggeshall.

The said William Coggeshall, one of these respondents, says that he had a conversation with said Lincoln in relation to said patterns of iron, in which the said Lincoln informed said respondent that said patterns of iron were his own property. He, the said respondent, William Coggeshall, further alleges that afterwards, at his dwelling-house in Fall River, he had a further conversation with said Lincoln in relation to said iron patterns, in which said conversation said Lincoln informed him that he had sold said patterns to these respondents, William and Cook, and that he had charged the same in account to said William and Cook.

These respondents, the said William and Cook, further allege that said patterns of iron, so purchased by them from said Lincoln, were imperfect, unfinished, and incomplete, and that they incurred large expenditures in employing skilful mechanics to finish and perfect said patterns.

These respondents further allege, answer, and set forth, that *that* they employed said Thomas J. Coggeshall to assist them in carrying on the said foundry and in manufacturing the said stoves, and was to give him one-half of the net profits arising therefrom for his said services.

The said William and Cook, further answering, say that no other person but the said Thomas J. was in any way interested with them in the manufacture of the said stoves.

These respondents further allege, that up to the first day of September, A. D. 1849, they had made and delivered to said complainants but twenty-nine of said stoves; and that after that time, during the year A. D. 1849, these respondents made and delivered to said complainants the number of stoves that appears and is set forth by the schedule annexed and marked "A," which said stoves were delivered at the times they are charged in said schedule.

These respondents further say, that up to the tenth day of January, A. D. 1850, they made no other contract with said complainants, either directly or indirectly, in relation to any subject or thing whatsoever.

These respondents further allege, that on the tenth day of January, A. D. 1850, they adjusted all accounts with said complainants,

and settled all matters then outstanding between said complainants and these respondents, as these respondents then understood.

These respondents further allege, that previous to said tenth day of January, 1850, said Thomas J. Coggeshall had ceased to have any connexion in said business with them, and ceased to be in any way interested in the manufacture of said stoves.

These defendants further allege, that on said tenth day of January, A. D. 1850, a new contract was made and entered into by and between said complainants and these respondents, said William and Cook, by the terms of which these said respondents were to furnish the said complainants, at a specified price, with what stoves they might want to supply their customers between said last mentioned time and April 1, 1850.

These respondents further allege, that they entered upon the fulfilment of said contract, and the same has been thus far faithfully fulfilled, by both of the parties to said contract.

These respondents further allege, that afterwards, on the twenty-fifth day of March, A. D. 1850, they entered into another contract with said complainants, by the terms of which they were to manufacture for, and sell to the complainants, two hundred and seventy other stoves, which said contract they were fulfilling at the time of the filing of said bill against them.

These respondents admit, that some time in said month of March, A. D. 1850, the said Ames came to the said foundry, and demanded from said respondents all of said patterns of iron, together with certain patterns of wood, which had been forwarded by said Lincoln to said respondents, and then took by an officer, who was charged with the service of a writ of replevin, all of said wood patterns. At this time, John LeBaron, acting under the direction of these respondents, commenced pointing out to said Ames the said iron patterns, purchased, as aforesaid, by these respondents from said Lincoln, and by said Lincoln forwarded to these respondents, at their said furnace in Fall River: at the time said patterns were so being pointed out by said LeBaron, one of these respondents informed said Ames, that if he elected to take said patterns of iron, that he would take them subject to all the rights of the respondents in the premises—whereupon the said Ames did not elect to take said patterns of iron.

These respondents further allege, that the stoves which they have manufactured, had inscribed upon them the words, letters and figures as set forth in the answer of Thomas J. Coggeshall to the thirty-sixth interrogatory annexed to the complainants' bill, to which answer they ask leave to refer.

These respondents further admit, that they have in their possession certain patterns of iron, from which they intend to cast others of said stoves; and they also admit, that they intend to inscribe upon said stoves, which they so intend to make, the words and letters fol-

lowing, to wit: "Air-Tight Granite State Stove, made by the Fall River Foundry Co., Fall River, Mass."

These respondents deny that said complainants have any exclusive right to the "*trade marks*" last aforesaid, intended by these respondents to be inscribed upon such of said stoves as they may hereafter manufacture.

These respondents further deny that they were ever the agents, servants, or trustees of the complainants, in any way connected with said stoves, or the patterns thereof; but aver, that said patterns of iron, by them purchased of said Lincoln, were, and are exclusively their own property.

WILLIAM COGGESHALL.
COOK BORDEN.

This respondent, William Coggeshall, for himself and separately from said Borden, now makes answer to the several interrogatories propounded in the complainants' bill, as follows, to wit:—

In answer to the first eleven of said interrogatories, referring to the contract between said Lincoln and the said complainants, this respondent has no knowledge of the subject of said interrogatories, except what is already set forth in the general answer of him and the said Cook Borden. In answer to the 12th, he says the contract to purchase the said patterns of iron from the said Lincoln, was made by the said Thomas J., for these respondents, and that, subsequent to said contract, said Lincoln forwarded said patterns to said Fall River Foundry.

To the 13th he answers: No; not by purchasing said patterns.

To the 14th he says: he knows of no agreement to which they could consent, other than the one set out in the answer of these respondents.

To the 15th he answers: He does not know. He supposes that said Thomas J. had some connection in business with said Lincoln. He knows of no agreement, other than that set forth in this answer, which said Thomas could adopt or consent to.

To the 16th he answers: No.

To the 17th he answers: They could not.

To the 18th he answers: He did, in the manner set forth in this answer, but not otherwise.

To the 19th he answers: They knew of no such agreement as is set forth in said bill, and consented to no such.

To the 20th he answers: Not as stated in the bill—but avers they knew of his acting and doing, and ratified and adopted them, as stated in the answer.

To the 21st he answers: They did take said patterns, and undertook to comply with the agreement, as set forth in the answer, and not otherwise.

To the 22d he answers: Yes.

To the 23d he answers: No; they had delivered but twenty-nine on that day.

To the 24th he answers: They have since delivered 941 stoves.

To the 25th he answers: He does not know; but has been informed that he did not.

To the 26th he answers: They did not deliver that number at that time, nor did they agree to.

To the 27th he answers same as to the 26th interrogatory, and denies that they were requested, or refused so to do.

To the 28th he answers: He never knew or heard that it was so agreed.

To the 29th he answers: No.

To the 30th he answers: He does not know.

To the 31st he answers: No.

To the 32d he answers: He knows of no such agreement.

To the 33d he answers: No.

To the 34th he answers: They took away the wood patterns and demanded such of the iron patterns as were purchased by these respondents of Lincoln.

To the 35th he answers: That they were willing to point out said iron patterns to said Ames, and informed said Ames that if he took the said patterns, he took them subject to all the rights of these respondents in the premises.

To the 36th he answers: Yes, and that the said Ames has admitted in substance and declared in the presence and hearing of this respondent, that these respondents have the right so to copy said patterns, and that the patterns so taken were the property of these respondents. These respondents are now making and intend to make other stoves from said patterns, to have the words and letters inscribed thereon, set forth in the answer of these respondents.

To the 37th he answers: That said interrogatory is answered in his answer to the 36th interrogatory.

To the 38th he answers: They have made and sold to other persons than the complainants about eighty stoves. That said stoves so sold to other persons had not the names of the complainants inscribed thereon.

To the 39th he answers: He does not know. He has made no calculation.

To the 40th he answers: They are somewhat like said patterns, but are materially improved.

To the 41st he answers: and denies that the inscription on said stoves are *trade marks* to which the complainants have any exclusive right.

To the 42d he answers: It has been already answered in the general answer of these respondents.

To the 43d he answers: These respondents know of no such permission having been granted.

To the 44th and 45th this respondent answered: He does not know.

To the 46th he answers: He had never heard anything of such a privilege.

To the 47th he answers: He does not know anything of the terms of Lincoln's agreement with the complainants.

To the 48th and 49th he answers: No.

To the 50th he answers: That the respondents are possessed of said patterns, and intend to make said stoves—but not by virtue of any agreement with the complainants.

All which matters and things this respondent is willing to aver, maintain, and prove, as this honorable Court shall direct; and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully incurred.

WILLIAM COGGESHALL.

This respondent, Cook Borden, for himself, and separately from said Coggeshall, now makes answer to the several interrogatories propounded in the complainants' bill as follows, to wit:—

In answer to the first eleven of said interrogatories referring to the contract between said Lincoln and the said complainants, the respondent has no knowledge, except what is already set forth in the general answer of him and the said William Coggeshall.

In answer to the 12th, he says: The contract to purchase the said patterns of iron from the said Lincoln was made by the said Thomas J. for these respondents, and that subsequent to said contract, said Lincoln forwarded said patterns to said Fall River.

To the 13th he answers: No, not by purchasing said patterns.

To the 14th he says: He knows of no such agreement to which they could consent other than the one set out in the answer of these respondents.

To the 15th he answers: He does not know; he supposes that said Thomas J. had some connection in business with said Lincoln. He knows of no agreement other than that set forth in this answer, which said Thomas could adopt or consent to.

To the 16th he answers: No.

To the 17th he answers: They could not.

To the 18th he answers: He did, in the manner set forth in this answer, but not otherwise.

To the 19th he answers: They knew of no such agreement as is set forth in said bill, and consented to no such.

To the 20th he answers: Not as stated in the bill. But avows they knew of his acting and doing, and ratified and adopted them as stated in the answer.

To the 21st he answers: They did take said patterns, and under-

took to comply with the agreement, as set forth in the answer, and not otherwise.

To the 22d he answers: Yes.

To the 23d he answers: No; they had delivered but twenty-nine on that day.

To the 24th he answers: They have since delivered 941 stoves.

To the 25th he answers: He does not know, but has been informed that he did not.

To the 26th he answers: They did not deliver that number at that time, nor did they agree to.

To the 27th, he answers same as to the 26th interrogatory, and denies that they were requested or refused so to do.

To the 28th he answers: He never knew or heard that it was so agreed.

To the 29th he answers: No.

To the 30th he answers: He does not know.

To the 31st he answers: No.

To the 32d he answers: He knows of no such agreement.

To the 33d he answers: No.

To the 34th he answers: They took away the wood patterns and demanded such of the iron patterns as were purchased by these respondents of Lincoln.

To the 35th he answers: That they were willing to point out said iron patterns to said Ames, and informed said Ames that if he took the said patterns, he took them subject to all the rights of these respondents in the premises.

To the 36th he answers: Yes, and that the said Ames has admitted and declared in the presence and hearing of this respondent, that these respondents have the right so to copy said patterns, and that the patterns so taken were the property of these respondents. These respondents are now making, and intend to make other stoves from said patterns, to have the words and letters inscribed thereon set forth in the answer of these respondents.

To the 37th he answers: He refers to his answer to interrogatory 36.

To the 38th he answers: They have made and sold to persons other than the complainants, about eighty stoves; that said stoves so sold had not the names of the complainants thereon.

To the 39th he answers: According to his best knowledge in the premises, they have realized thus far no profits in the manufacture of said stoves.

To the 40th he answers: The patterns they have so made are somewhat like said patterns—but are materially improved.

To the 41st he answers, and says: He believes said inscriptions are not the "trade marks" of the complainants.

To the 42d he has made answer in his general answer.

To the 43d he answers: He has known no such permission to be granted.

To the 44th and 45th he answers: He does not know.

To the 47th he answers: He knows nothing of the terms of the agreement of complainants with Lincoln.

To the 48th and 49th he answers: No.

To the 50th he answers: That these respondents are possessed of said patterns, and intend to make stoves, but not by virtue of any agreement with the complainants.

All which matters and things this respondent is willing to aver, maintain and prove, as this Honorable Court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in the premises which he has most wrongfully sustained.

COOK BORDEN.

Schedule A.

1849.				
August	24		13	
"	28		16—	29
September	3		18	
"	6		16	
"	8		20	
"	12		18	
"	18		18	
"	20	Bill dated 21st September,	22	
"	26	" " 25th "	29	
"	29		31	
October	3		22	
"	6		38	
"	13		24	
"	17		24	
"	19		25	
"	22		1	
"	23		25	
"	24		1	
"	26		35	
"	30		35	
November	5		29	
"	7		32	
"	10		40	
"	15		2	
"	17		8	
December	6		12	
"	11		12	
"	17		10	
"	20		9	
"	26	Sent December 28th,	18	

1850.			
January	12	25	
February	8	10	
"	23	12	
March	18	25	
"	19	25	
April	1	30	
"	4	40	
"	10	40	
"	16	43	
"	20	43	
"	26	37	
May	6	37	—941
			970

The cause was thence continued from term to term to the May term, A. D. 1851, when, to wit, September 25th, A. D. 1851, the replication.

The Replication of James Hartshorn and Winslow Ames, complainants, to the Answer of William Coggeshall, Thomas J. Coggeshall, and Cook Borden, defendants.

These repliants, saving and reserving unto themselves all, and all manner of advantage of exception to the manifold insufficiencies of the said answers, for replication thereunto say, that they will aver and prove their said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendants is uncertain, untrue, and insufficient to be replied unto by these repliants. Without this, that any other matter or thing whatsoever, in the said answer contained, material or effectual in the law to be replied unto, confessed, and avoided, traversed, or denied, is true:

All which matters and things these replicants are and will be ready to aver and prove, as this Honorable Court shall direct, and humbly pray as in and by their said bill they have already prayed.

By their Solicitor, JOHN C. ADAMS.

The cause was thence continued to the October term, 1851, when, to wit, on the 15th day of October, A. D. 1851, the following entry was made, to wit: "Mr. Justice Curtis, having been of Counsel, does not sit in this cause."

And thence the said cause was continued from term to term till the October Term, A. D. 1853, when the following interlocutory decree was made, viz:—

This cause came on to be heard at this term, and was argued by counsel, and thereupon, upon consideration thereof, it was ordered, adjudged, and decreed as follows, viz:—

That it be referred to a master to inquire and state to the Court how many stoves have been made by the said defendants, or either of

them, having thereon the words and marks "Air-Tight Granite State Stove," or words to that effect, since the filing of the bill.

And to inquire and state how many stoves have been cast by said defendants, or either of them, from the patterns of wood or iron which are in the bill of complaint alleged and referred to as having been invented by said complainants.

And how many patterns or sets of patterns in iron the said defendants, or either of them, may have taken off from the patterns of the complainants, or copies thereof, since said date, and how many they, or either of them, now have.

And to state an account of all gains and profits which said defendants, or either of them, have made from the manufacture of the stoves from the patterns, or from the use of said patterns, as in said bill is alleged, and from the sale of said stoves to persons other than the complainants; and how many they have so sold and manufactured.

And for the better taking of said account, and discovery of the matter aforesaid, the said respondents, and each of them, are to produce any and all books and accounts which have been kept by them, or their direction, relating to said stoves, or the manufacture or sale thereof, or of said patterns, and are to be examined under oath by the said master concerning the matters and things of which an account is to be taken, and to submit to such direction of said master as to the examination of all such books, accounts, and papers, as he may deem proper and expedient.

And it is ordered that said defendants, and each of them, be restrained and enjoined from making or vending any one or more of the said stoves substantially the same in its construction as the said patterns referred to, and from using the marks, words, and letters claimed in said bill of complaint as belonging to said complainants.

And it is ordered that said defendants, and each of them, deliver up to said complainants any, all, and every pattern of said stove, in wood or iron, which they received from A. A. Lincoln, as in said bill is alleged.

And said defendants are forever restrained hereby from transferring, or using, or permitting others to use the patterns of said stove in said bill referred to, or any patterns for the making of said stoves.

And it is further ordered that Wm. S. Dexter, of Boston, in said district, Esquire, be and he is hereby appointed to act as Master in the above entitled cause, and to make his report touching the matters referred to him with all convenient speed.

And on the 30th day of March, A. D. 1854, the complainants move the honorable Court that the Master to whom the cause has been referred be further directed to ascertain and refer to the amount of damage, loss, and expense which the complainants have incurred and suffered by reason of the acts, and doings, and matters in said bill alleged; and to have power to summon witnesses, and to do all matters required for the full and complete execution of said decree, amended as in said original decree is set forth.

Whereupon, to wit, on the 24th day of April, 1854, it was ordered and decreed by the Court that William S. Dexter, Esq., the Master to whom the cause has been referred, be directed to ascertain and report the amount of damage, loss, and expense which the complainants aforesaid have incurred and suffered by reason of the acts, and doings, and matters in the bill of complaint aforesaid alleged, and that he have power to summon witnesses and examine the parties if he shall think fit, and require the production of all papers, books, and accounts relating to the same.

The cause was then continued to May Term, 1854, when, to wit, May 18th, the counsel for complainants moved the Court to rescind the order last above mentioned, of April 24th, 1854; which motion, after a full hearing of the parties thereon, was granted, and it was thereupon ordered, adjudged and decreed by the Court, that the interlocutory order made on the 24th day of April, 1854, be, and the same is hereby rescinded, and that notice thereof be given to the Master. Notice of this decree having been given to the Master, as directed—

This cause was thence continued from term to term, to May Term, A. D. 1855, when the following report of the Master was made, together with a return of the agreement of parties, as follows:—

A.

It is agreed between the parties to the hearing in case of Hartshorn *et al. vs.* Coggeshall *et al.*, that the complainants and respondents shall each appoint an accountant pecuniarily disinterested, save as to his wages, who shall together examine the books which are mentioned in the answers of the respondents to claimants' interrogatories, and make such abstracts of the same as shall enable them to state the condition of the business of manufacturing and selling the Granite State Stove, and the items of cost of said stove, and the price at which they were sold, each party to pay his own accountant.

And the report which said accountants shall render, whether in concert or separate, shall be submitted to the Master within four weeks herefrom, subject to such objections as the parties may make to the manner of computing the same and estimating.

June 5, 1854.

JOHN A. LORING,
for Compl't.
W. P. SHEFFIELD,
for Respond'ts.

Master's Report.

JAMES HARTSHORNE *et al.*, in Equity,
vs.
THOMAS J. COGGESHALL *et al.*

The undersigned, having been appointed by order of the Court of February 10th, 1854, to act as Master in the above entitled cause,

and to inquire and inform the Court touching the matters in said order set forth, reports—

That the parties have been at divers times before him, with books, papers, and witnesses; and that he has heard the parties touching the matters aforesaid, and that on June 5th, 1854, by reason of the great number and extent of books of account to be examined, and of the inconvenience which respondents represented would result to them from an impounding of all or any of said books by the undersigned, the agreement hereto annexed and marked "A," was entered into by the parties concerning the manner of taking the account between said parties, as it appears on the books of the respondents.

As to the first matter in said order of Court mentioned, viz: "How many stoves have been made by the defendants, or either of them, having thereon the words and marks "Air-Tight Granite State Stoves?" or words to that effect, since the filing of the bill, the undersigned reports that within said time between the filing of the bill and the date of said order of Court, there have been made by defendants, twenty-five hundred and eighty-two stoves of the description in said order set forth.

As to the second point in said order mentioned, viz: "How many stoves have been cast by said defendants, or either of them, from the patterns of wood or iron which are in the bill of complaint alleged and referred to as having been invented by said complainants?" the undersigned reports that the aforesaid number of stoves, to wit, 2,582, being the same stoves above mentioned, were all so cast within the time aforesaid.

As to the third point in said order mentioned, viz: "How many patterns or sets of patterns in iron the said defendants, or either of them, may have taken off from the patterns of the complainants, or copies thereof since said date, and how many they or either of them now have?" the undersigned reports that no evidence touching the matters in said point included has been before him, and that he cannot report thereon.

And as to the fourth point in said order set forth, viz: To state an account of all gains and profits which said defendants or either of them have made from the manufacture of the stoves from the patterns, or from the use of said patterns, as in said bill is alleged, and from the sale of said stoves to persons other than the complainants, and how many they have so sold and manufactured, the undersigned reports as follows:—

In accordance with the aforesaid agreement hereto annexed, the respondents presented and filed statements of the account between the parties for stoves made and sold, as in said order set forth, as appearing upon the books of said respondents; to divers items whereof the complainants duly excepted, as in said agreement provided, and also filed statements of the same account, made up likewise in accordance with said agreement; to which the respondents duly excepted

as aforesaid; and much testimony was presented on behalf of both parties for the purpose of sustaining their respective statements.

Inasmuch as the statements of said account, as finally presented by the respondents, contain all the items which are included in the complainants' statements of the same account, together with all those items concerning which the parties are at variance, I have hereto annexed copies of said statements of respondents for the convenience of the Court, and the same are marked, respectively, B, C, D, E, and F.

It appeared and was admitted that the number of stoves made and sold by respondents, for the profits whereon they are ordered to account, was, as aforesaid, twenty-five hundred and eighty-two, and that the average price at which the same were sold was nine dollars and fifty-three cents per stove; that of this number, fifteen hundred and nine were made and sold between the filing of the bill and February 1, 1851; two hundred and eighty-three between February 1, 1851, and January 1, 1852; four hundred and eleven between January 1, 1852, and January 1, 1853; and three hundred and seventy-nine between January 1, 1853, and the date of said order of the Court.

The amount received by respondents from the sale of said stoves was between the filing of the bill and February 1, 1851	$14,380 77
Between February 1, 1851, and January 1, 1852	2,696 99
In 1852	3,916 83
Between January 1, 1853, and the date of said order	3,611 87

From these sums is to be deducted the cost of making said stoves. It is concerning the items of such cost that the parties disagree, and said items as claimed by respondents appear by the schedules B, C, D, E, and F, hereto annexed as aforesaid.

Of the items of cost of manufacture, so appearing, I have disallowed the following, as seeming to me improper charges, or not sufficiently proved to have been incurred on account of the manufacture in question, viz:—

In Schedule B.

Item 7.	Superintendents' salary	$500
Of " 9.	Travelling expenses	45 98
" " 21.	Commissions on coal and iron	112 50
" " 23.	Iron account	110 91
" " 26.	Freight	75 45
" " 28.	Commissions on sale of stoves	1,131 75
" " 29.	Bad debts as per schedule F	191 59
		$2,158 18

In Schedule C.

Item	7.	Superintendent's salary	$500	
"	21.	Commission on coal and iron	52	15
Of "	22.	Iron account	24	07
" "	25.	Freight	14	15
" "	27.	Commissions on sale of stoves	212	23
" "	28.	Bad debts as per schedule F	950	05
			$1,762	65

In Schedule D.

Item	7.	Superintendent's salary	$500		
"	20.	Commission on coal and iron		82	09
Of "	22.	Iron account $20 23, and of (25) freight $20 55		40	78
" "	27.	Commission on sale of stoves		308	25
				$931	12

In Schedule E.

Item	7.	Superintendent's salary	$500	
"	20.	Commission on coal and iron	136	86
Of "	22.	Iron account	53	12
" "	25.	Freight	18	95
" "	27.	Travelling expenses	117	24
" "	28.	Commission on sale of stoves	184	25
" "	29.	Bad debts, as per schedule F	70	25
			$1,080	67

In Schedule F.

1850.

Of item	1.	S. K. Roberts	159	66
" "	2.	Luther B. Ford	17	84
" "	3.	James M. Brewer	5	37
" "	5.	S. P. Oliver	8	72
			$191	59

1851.

" "	7.	S. T. Snow & Co.	$38	25
" "	8.	T. J. Coggeshall	911	80
			$950	05

1853.

Of item 14.	R. Callender & Co.	$27 66
" " 15.	Richard Nutter	10 00
" " 16.	N. E. E. Chase	14 72
" " 17.	G. W. Linnell	17 87
		$70 25

At the special request of both complainants and respondents, I do report in the alternative as to such of the bad debts set forth in schedule F as I find chargeable to the account of such stoves as are in said Order of Court mentioned, leaving to be decided by the Court the question whether such bad debts should or should not be included in the cost of manufacture; and I therefore find and report to the Court that the amount received from the sale of said stoves between the filing of the bill and the first day of February, A. D. 1851, was, as aforesaid, ... $14,380 77

From which the cost of manufacture to be deducted is, if said bad debts are allowed	$12,178 32
Leaving a balance of profit	2,202 45
Interest whereon from Feb. 1, 1851 to date of order	396 44
Making the whole amount of profits . . .	2,598 49

But if said bad debts are not allowed, then from said sum received from sale of stoves, viz: . .	$14,380 77
Should be deducted, as cost of manufacture, . .	11,490 18
Leaving a balance of profits	2,890 15
Interest whereon from Feb. 1, 1851, to date of order	520 30
Making the whole amount of profits . . .	3,410 89

1851.

The amount received from sales of stoves between Feb. 1, 1851, and Jan. 1, 1852, was, as aforesaid, . .	$2,696 99
From which the cost of manufacture to be deducted is, if said bad debts are allowed	$2,060 75
Leaving a balance of profit	636 24
Interest whereon, from Jan. 1, 1852, to date of order	80 47
Making the whole amount of profit	716 71

But if said bad debts are not allowed, then from said sum received from sales of stoves, viz: . . .	$2,696 99
Should be deducted, as cost of manufacture, . .	1,747 22
Leaving a balance of profit	949 77
Interest whereon from Jan. 1, 1852, to date of order .	119 20
Making the whole amount of profit	1,068 97

1852.

The amount received from sales of stoves between Jan. 1, 1852, and Jan. 1, 1853, was, as aforesaid, . .	$3,916 83
From which the cost of manufacture to be deducted is, if said bad debts are allowed	2,853 71
Leaving a balance of profits	1,063 12
Interest whereon from Jan. 1, 1853, to date of order .	70 69
Making the whole amount of profits	$1,133 81
But if said bad debts are not allowed, then from said sum received from sales of stoves, viz: . . .	$3,916 83
Should be deducted, as cost of manufacture, . .	2,530 83
Leaving a balance of profit	1,386 00
Interest whereon from Jan. 1, 1853, to date of order .	92 16
Making the whole amount of profits . . .	$1,478 16

1853.

The amount received from sales of stoves between Jan. 1, 1853, and the date of said order was, as aforesaid,	$3,611 87
From which the cost of manufacture to be deducted is, if said bad debts are allowed	3,493 00
Leaving a balance of profit	118 87
But if said bad debts are not allowed, then from said sum received from sales of stoves, viz: . . .	3,611 87
Should be deducted, as cost of manufacture, . .	2,624 26
Leaving a balance of profits	987 61

In conclusion, therefore, the undersigned finds and informs the Court that the gains and profits which the respondents have made from the manufacture and sale of said stoves, as in said order of Court set forth, are, if said bad debts are allowed as part of the cost of manufacture, the sum of four thousand five hundred and sixty-seven dollars and eighty-eight cents $4,567 88

But if said bad debts are not allowed as part of the cost of manufacture, then the said gains and profits amount to the sum of six thousand nine hundred and forty-five dollars and sixty-three cents. $6,945 63

Master's fees, $250.

WILLIAM S. DEXTER,
Master in said Cause.

At the request of George T. Curtis, Esquire, of counsel for the respondents aforesaid, the Master aforesaid herewith submits a report of the evidence produced before him at the various hearings aforesaid in relation to the following items of cost of manufacture disallowed as aforesaid, viz:—

In Schedule B, hereto annexed as aforesaid:

Item	7.	Superintendent's salary	$500
"	21.	Commissions on coal and iron . . .	112 50
"	28.	" " sale of stoves . . .	1,131 75
		In Schedule C.	
"	7.	Superintendent's salary	500
"	21.	Commissions on coal and iron . . .	52 15
"	27.	" " sale of stoves . . .	212 23
		In Schedule D.	
"	7.	Superintendent's salary	500
"	20.	Commissions on coal and iron . . .	82 09
"	27.	" " sale of stoves . . .	308 25
		In Schedule E.	
"	7.	Superintendent's salary	500
"	20.	Commissions on coal and iron . . .	136 86
"	28.	" " sale of stoves . . .	184 25
		In Schedule F.	
"	8.	T. J. Coggeshall	911 80

And said report of such evidence is hereunto annexed.

B.

Statement of Cost of 1509 *Granite State Stoves, Manufactured by Respondents (Schedule B), between April* 16, 1850, *and Feb.* 1*st*, 1851, *as stated by Respondents.*

The total cost of the whole business of the foundry was composed of the following items:—

1.	Power to blow		286 25
2.	Rent of foundry and stove-house		425
3.	Taxes	$13 53	
4.	Insurance	68	
			81 53
	Carried over		792 78

	Brought over		792 78
5.	Foreman	$622 92	
6.	Clerk	200	
7.	Superintendent	500	
			1,322 92
8.	Use of horse and wagon	$100	
9.	Travelling expenses	197 77	
			297 77
10.	Moulding sand	$60 08	
11.	Bricks and keoline	71 64	
			131 72
12.	Soapstone facing	$15 75	
13.	Lead facing	67 49	
			83 24
14.	Anthracite coal	$467 05	
15.	Charcoal and wood	49 87	
			516 92
16.	Labor account		7,250 13
17.	Wharfage and freight on moulding sand		10
18.	Interest on stock		175 45
19.	Lumber account		79 25
20.	Miscellaneous expenses		640 73
21.	Commissions on coal and iron		112 50
22.	Insurance		10 12
	Making in all		$11,423 53

The business of the Granite State Stove was, during this time, $\frac{6725}{10000}$ of the whole. Therefore 6725 of this amount should be charged to the cost of making Granite State Stove, viz: . . . $7,682 32

23.	Iron for 1509 stoves, $169\frac{1892}{2000}$ tons at $22 per ton	3,993 73
24.	Nuts " " at 2 cents	30 18
25.	Screws " " " 2 "	30 18
26.	Freight " " " 30 "	452 70
27.	Cartage " " " 9 "	135 81
28.	Commissions on sale 1509 stoves	1,131 75
29.	*Bad debts*	879 83
	Making total cost of manufacture	$14,336 50

2505

C.

Feb. 1st, 1851, to Feb. 1st, 1852.

The total cost of general business of the foundry was as follows, viz:—

1.	Power to blow		265
2.	Rent of foundry and storehouse		425
3.	Insurance	$53 46	
4.	Taxes	11 64	
			65 10
5.	Foreman	$581 37	
6.	Clerk	200	
7.	Superintendent	500	
			1,281 37
8.	Horse and wagon	$150	
9.	Travelling expenses	149 66	
			299 66
10.	Moulding-sand	$128 60	
11.	Bricks and keoline	21 48	
			150 08
12.	Soapstone facing	$3 00	
13.	Lead facing	124 22	
			127 22
14.	Anthracite coal	$297 90	
15.	Charcoal and wood	67 12	
			365 02
16.	Labor account		6,253 68
17.	Wharfage and freight on moulding-sand		44 10
18.	Interest on stock		92 50
19.	Lumber acc.	$24 76	
20.	Miscellaneous expenses	426 51	
			451 27
21.	Commissions on coal and iron, $52 15		52 15
	Making in all		$9,872 15
	The business of the Granite State Stove was, during this time, $\frac{1533}{10000}$ of the whole; therefore, 1533 of this amount should be charged to the cost thereof, viz:—		$1,524 66
	And to this are to be added for charges to Granite State Stove exclusively:—		
22.	Iron for 283 stoves, $31\frac{840}{2000}$ tons, @ $22		691 24
23.	Nuts " " @ 2		5 66
24.	Screws " " "		5 66
	Carried forward		2,227 22

Brought forward		2,227 22
25. Freight for 283 stoves @ 30		84 90
26. Cartage " " 9		25 47
27. Commissions on sale of 283 stoves . . .		212 23
28. *Bad debts*		1,263 58
Making total cost of manufacture . .		$3,813 40

D.

Feb. 1st, 1852, to Jan. 1st, 1853.—(Schedule D.)

The total cost of the general business of the foundry was as follows, viz:—

1. Powder to blow		$290
2. Rent of foundry and storehouse		425
3. Insurance	$53 47	
4. Taxes	12 96	
		66 43
5. Foreman	$541 67	
6. Clerk	500	
7. Superintendent	500	
		1,541 67
8. Horse and wagon	$200	
9. Travelling expenses	107 48	
		307 48
10. Brick and keoline	$26 52	
11. Moulding sand	204	
		230 52
12. Soapstone facing	$6 75	
13. Facing lead	159 28	
		166 03
14. Anthracite coal	$499 55	
15. Charcoal and wood	93 04	
		592 59
16. Labor account	$9,715 26	
17. Interest on stock	120	
		9,835 26
18. Lumber	$72 49	
19. Miscellaneous expenses . . .	660 05	
		732 54
20. Commissions on iron and coal . .	$82 09	
21. Insurance on do.	5	
		87 09
Making in all		$14,274 61

	The business of the Granite State Stove was, during this time, $\frac{257}{1900}$ of the whole, and should be charged, therefore, ...		$1,930 75
	And to this add for charges to G. S. Stove, exclusively:—		
22.	Iron for 411 stoves, $45\frac{976}{2000}$ tons @ $23 . .		1,046 22
23.	Nuts " " @ 2		8 22
24.	Screws " " "		8 22
25.	Freight " " 30		123 30
26.	Cartage " " 9		36 99
27.	Commission on sale of 411 stoves . . .		308 25
28.	*Bad debts*		322 88
	Making total cost of manufacture . .		$3,784 85

E.

Jan. 1st, 1853, to Jan. 1st, 1854.—(Schedule E.)

The total cost of the general business of the foundry was as follows, viz:—

1.	Powder to blow		$331 25
2.	Rent of foundry and storehouse		475
3.	Insurance	$53 47	
4.	Taxes	16 71	
			70 18
5.	Foreman	$750	
6.	Clerk	500	
7.	Superintendent	500	
			1,750
8.	Horse and wagon	$250	
9.	Travelling expenses	88 13	
			338 13
10.	Bricks and keoline	$39 52	
11.	Moulding-sand	183 32	
			222 84
12.	Soapstone facing	$157 69	
13.	Facing-lead	25 37	
			183 06
14.	Anthracite coal	$782 80	
15.	Charcoal and wood	64 64	
			847 44
16.	Labor account	$11,533 09	
17.	Interest on stock . . .	326 09	
			11,859 18
	Carried forward		16,077 08

	Brought forward		16,077 08
18.	Lumber	$119 02	
19.	Miscellaneous expenses . . .	664 80	
			783 82
20.	Commissions on coal and iron . .	$136 86	
21.	Insurance on do.	27 29	
			164 15
	Making in all		$17,025 05
	The business of the Granite State Stove was, during this time, $\frac{1}{17}\frac{8}{0}$ of the whole, and should therefore be charged		$1,802 60
	And to this add for charges to G. S. Stove, exclusively:—		
22.	Iron for 379 stoves, $40\frac{1540}{2000}$ tons @ $33 50 .		$1,365 79
23.	Nuts " " @ 2		7 58
24.	Screws " " "		7 58
25.	Freight " " 30		113 70
26.	Cartage " " 9		34 11
27.	Travelling expenses		119 07
28.	Commission on sale of 379 stoves . . .		184 25
29.	*Bad debts*		938 99
	Making total cost of manufactures .		$4,573 67

F.

Schedule of Bad Debts, as rendered by the Respondents.

	1850.		
1.	S. K. Roberts	$579 16	
2.	Luther B. Ford	243 22	
3.	James M. Brewer	135 10	
4.	J. S. Williams	1 13	
5.	S. P. Oliver	180 11	
			$1,138 72
	1851.		
6.	James Bailey	$51 96	
7.	S. T. Snow & Co.	298 52	
8.	T. J. Coggeshall	911 80	
9.	N. Huckins	127 24	
			1,389 52
			$2,528 24
	1852.		
10.	Witherell & Fenno	$45 31	
11.	J. R. Parks & Co.	11 50	
12.	L. T. Starkie	256 47	
13.	H. J. Collum	10 60	
			323 88
	Carried forward		2,852 12

Brought forward		2,852 12
1853.		
14. R. Callender & Co.	527 36	
15. Richard Nutter	40 46	
16. N. E. E. Chase	199 64	
17. G. W. Linnell	80 53	
		847 99
Total		$3,700 11

REPORT OF EVIDENCE.

Superintendent's Salary.

Timothy C. Whittemore, the accountant employed by complainants in accordance with the agreement hereto annexed, testified as follows: "In making up my account, I did not allow any superintendent's salary, because no vouchers for it were shown to me, nor any sufficient evidence of its having been paid. I didn't find it on the books."

William T. Coggeshall testified that he is the son of one of the respondents, Wm. Coggeshall, that he has been in the employ of the Fall River Foundry since June, 1851, as clerk, and has kept the books since that date; and as follows: "There was no account kept on the books, while I was there, in which William Coggeshall was allowed a salary as superintendent. I know of nothing paid to him while I was there. The charge would not be made from year to year; not until final settlement between the partners in the firm. This foundry business was considered separate from their other business, which was general and extensive. William Coggeshall undertook the financial business of the foundry. I don't know that he was financier for the other business of the firm; think he was. I was clerk for the foundry only, and never saw the other books. This $500 don't include any charge for managing the other business. The other business had a separate counting-room and clerks. William Coggeshall charged the same for taking charge of this business that Cook Borden has for taking charge of the other. To the best of my knowledge, Wm. Coggeshall does the same financial business for the other business of the concern as for the foundry. As between the partners, this charge is allowed, to the best of my knowledge. Wm. Coggeshall had $500 for doing the financial business of John Hull & Company."

Commissions on Coal and Iron, and Commissions on Sales of Stoves.

Searle, the accountant employed by respondents under the agreement aforesaid, testified as follows: "As to commissions on coal and iron, there was no voucher for these, and no charge on the books, to my knowledge. Respondents claimed it, and I allowed it. William Coggeshall claimed it on the ground that if he had employed an

agent, he would have had to pay him, and that, as he bought it himself, respondents ought to be allowed commissions. I think one bill was bought by Cook Borden, and that in that there was a charge for commissions and insurance. I think I allowed 2 or 2½ per cent. for buying coal and iron. I got the amount on which to allow commissions from the amount of coal and iron which they had purchased.

"As to commissions on sales, a portion of this was vouched for in some of the years. I can't state as to any separate year. I think I charged 75 cents per stove as commission. I made it so because in two of the bills I found that they had allowed Snow and some one else $1 per stove for selling stoves. This appeared on the books. I don't think I had any other evidence of it. I allowed a commission in each year, as above."

Timothy C. Whittemore testified as follows: "I found no vouchers for commissions on stoves sold, or for commissions on coal and iron. Found none except for the amounts made up by me in my account. There were no specific charges on the books for commissions."

Bad Debt of T. J. Coggeshall.

William T. Coggeshall testified as follows: "As to the bad debts, I know only that certain debts are entered on the books as unpaid. Some of them are charged to profit and loss. The whole of the list put in is considered by us to be bad; they stand uncollected. I don't know anything as to the standing of the debtors. I know that those debts have not been paid since I have been there; and, so far as we know, they are uncollectable. So far as I know, the list put in is of bad debts on account of Granite State Stoves. I am confident that they are all on account of those stoves; to the best of my knowledge and belief, they are all so.

"T. J. Coggeshall is a brother of my father. His account is $1,243 46. This account is on the books. I have understood that he had failed. I don't know whether he got into insolvency. I don't know that any portion of this has been paid. I don't swear to the amount; the books will show that.

"In 1850–51, T. J. Coggeshall sold stoves on account of the firm; his account is in the small ledger; I have it here; the stoves sent to him were entered on a separate account; they were consigned to him to sell; they were sent to him to sell; he sent for them to deliver to other parties, and he did not render an account; he had a store in Blackstone Street, Boston.

The goods were sometimes sent directed to him, and sometimes directed to the parties to whom he was to deliver them, and sent to his care; those sent to his care we charged to the parties; those sent to him were charged as 'Shipment to Boston.' I can't tell without examining, whether any of the other accounts are included in his account; I presume not; I feel sure that they are not, from my knowledge of the books. Mr. Searle made up the account this last time, I had nothing to do with it."

Timothy C. Whittemore being recalled, testified: "On the list of bad debts, as rendered by Searle, item B is, 'T. J. Coggeshall, $1,243 46;' I find on one account of T. J. Coggeshall a balance due him of $822 01. This account is from June 4, 1850, to May 29, 1854, and appears to be a running account; I didn't examine the items, as the balance is in his favor. I find another account with 'Thomas J. Coggeshall, Agent,' and the balance due from him on that is $76 50. There are no Granite State Stoves in this account, it is mostly for cash. There is another account, of 'Shipment to Boston;' the entry is, 'we have shipped to Boston,' as per entry above, 'to care of T. J. Coggeshall, to be sold for and on our account, sundry stoves to supply such orders as are not received by him in time to admit of their being supplied by us direct from the foundry.' In that account I find charged $549 25 for Granite State Stoves, the other items are for other stoves; the whole of that account is $2,757 46, the balance of it, due from 'Shipment to Boston,' is $2,536 53.

That is all I could find on the books of Thomas J. Coggeshall; I didn't go over the account of 76 50, to see whether there were any Granite State Stoves in it."

Searle, being recalled, testified as follows:—

"I have made out an account of all the Granite State Stoves which T. J. Coggeshall has had, including all three accounts, and it is thus:—

Feb.	28, 1851,	30	G. S. Stoves,	$351 00
March	11, "	6	" "	75 00
May	21, "	10	" "	115 00
July	1, "	10	" "	115 00
Sept.	16, "	12	" "	138 00
Oct.	3, "	4	" "	42 00
"	14, "	6	" "	63 00
"	29, 1851,	3	" "	33 50
"	30, "	6	" "	77 00
Nov.	1, 1851,	4	G. S. Stoves,	42 00
"	22, "	7	" "	81 50
Dec.	1, "	8	" "	100 00
			Total,	$1,233 00

This includes hollow-ware; then I have deducted $1 50 on each stove for hollow-ware, viz: 159 00, which leaves $1074.

I then gave that account credit for $179 received of James Bailey and Richard Nutter, leaving $895."

The respondents thereupon admitted, after the introduction of further evidence concerning the price of hollow-ware, &c., that the foregoing deduction made for the price of such ware, &c., was insufficient, and stated their claim to be as follows:—

T. J. Coggeshall, 106 Granite State Stoves (*ut supra*), .		$1,074
Transfer from James Bailey's acc't, ...		50
" " Brewer's "		80
		$1,204

From which they deduct as credits:—

Received of Jas. Bailey and paid over,	$100 00	
" R. Nutter, . .	79 00	
Ware, &c. for 106 stoves @ $2 25 per stove, ...	238 50—$417 50	
Leaving a balance against T. J. Coggeshall of	786 50	
To which they add interest from July, 1851, to date of hearing, ...	125 84	
Making their whole claim, ...		$912 34

No evidence was produced before the undersigned concerning the above mentioned transfers of $50 from Jas. Bailey's account, and of $80 from Brewer's acc't.

Searle being again recalled, testified:—

"There are several accounts with Thomas J. Coggeshall, and they are, I think, the three accounts as stated by Whittemore, and one other called 'consignment to T. J. C.,' which has not been referred to."

June 29, 1855.

WILLIAM S. DEXTER,
Master as aforesaid.

To which report the respondents excepted, as follows, viz:—

Exceptions taken by the said respondents to the report of William S. Dexter, Esq'r, the Master to whom this cause was referred to take an account, by the decretal order of Feb'y 10th, 1854.

1st Exception. For that the said Master in and by his said report has disallowed as part of the cost of manufacturing the stoves, for the profits of which the respondents are ordered to account, the items of "superintendent's salary," "travelling expenses," "Commissions on coal and iron," "iron account," "freight," "commissions on sales of stoves," whereas the same should have been allowed.

2d exception. For that the said Master in and by his said report ought to have allowed to the respondents the sum of two thousand three hundred seventy-seven $\frac{55}{100}$ dollars, being the amount of the bad debts by them made in the sale of the stoves aforesaid; and inasmuch as the said Master in and by his said report has submitted to the Court the question whether such bad debts shall be allowed to the respondents as aforesaid, the said respondents now come and respectfully submit to the Court, that it appears in and by the said report, that

in the business of making and selling the said stoves which are included in the account taken by the Master, these respondents made certain bad debts, amounting in the whole to the sum last mentioned; and that neither by the terms of the decretal order of reference aforesaid, nor by the general principles of equity, can these respondents be held to account for the amount of sales so made by them, the proceeds of which they have never received, as part of the gains and profits made by them in the manufacture and sale of stoves from the patterns or by the use of the patterns in the said bill alleged to be the property of the complainants.

Wherefore the respondents except to the said Master's report, and appeal therefrom to the judgment of this Honorable Court.

THOMAS J. COGGESHALL & others.

By GEO. T. CURTIS,
of Counsel.

Afterwards, to wit, on the 30th day of November, A. D. 1855, the following final decree was made by the Court, viz:—

Upon the coming in of the Master's report in the above cause, and after hearing had on the exceptions thereto, on motion of the complainants' counsel, it is ordered, adjudged, and decreed by the Court that the bad debts referred to in said report be not allowed as a part of the cost of manufacture of said stoves in said bill of complaint described, and that the sum of six thousand nine hundred and forty-five dollars and sixty-three cents, with interest thereon from the date of the said Master's report, be forthwith paid unto said complainants, by said respondents, as being the amount of profits made by said respondents in the manufacture and sale of said stoves, and that all the exceptions taken to said report by said respondents be disallowed.

And it is furthermore ordered and decreed by the Court that the said respondents, Thomas J. Coggeshall, William Coggeshall, and Cook Borden, and their agents and servants, be perpetually enjoined from making, using, or vending to others, to be used, any one or more stoves or patterns of stoves substantially the same in construction, and having thereon the words, letters and marks the same, or substantially the same as claimed by said complainants in their bill, as being their trade-marks.

And it is furthermore ordered and decreed that said respondents be perpetually enjoined from vending any patterns made by them, or caused to be made, substantially the same as those described in said bill of complaint.

And the Court do furthermore order and decree that the said respondents do pay to the said complainants the costs of this suit, taxed at six hundred ninety-one dollars and seventy-nine cents. Whereupon the said respondents claimed an appeal to the Supreme Court of the United States, to be holden at Washington, on the first

Monday of December next, and gave good and sufficient security to prosecute their appeal with effect, and to answer all damages and costs if they shall fail to make good their appeal; which security was approved by the Court, and the said appeal was allowed accordingly.

CIRCUIT COURT OF THE UNITED STATES
for the District of Massachusetts.

JAMES HARTSHORN *et al.*
vs.
WILLIAM COGGESHALL *et als.*

UNITED STATES OF AMERICA.

CIRCUIT COURT OF THE U. S.,
Massachusetts District, ss.

In Equity.

On this twenty-fifth day of May, A. D. one thousand eight hundred and fifty-two, before me, Elias Merwin, a Commissioner duly appointed under the laws of the United States, by the Circuit Court of the United States for the Massachusetts District, personally appeared Annes A. Lincoln, of Norton, Mass., a witness for the complainants in a certain suit in equity, now pending before the Circuit Court of the United States for the District of Massachusetts, in which James Hartshorn *et al.* are complainants, and Thomas J. Coggeshall *et als.* are respondents.

And the said Annes A. Lincoln having been by me first duly cautioned and affirmed to testify the truth, the whole truth, and nothing but the truth, did depose and say as follows, in answer to the following direct interrogatories, propounded by J. A. Loring, Esq., solicitor for the complainants:—

1st interrogatory. What is your age, occupation, and where do you reside, and how long have you followed such occupation?

1st answer. I reside in Norton, Bristol County; my age is fifty-five years, and am now, and have been engaged for the last twenty years in the Iron Foundry business.

2d int. Do you know the parties to this suit? how long have you known the complainants, and how long have you known the respondents?

2d ans. I became acquainted with the complainants, or some of them, early in 1845; and with the respondents some ten or twelve years, viz: T. J. Coggeshall—the others only four or five years.

3d int. Has T. J. Coggeshall, one of the respondents, ever been employed by you? if yea, in what capacity, and for how long a time?

3d ans. He agreed to manage my financial affairs, and to indorse my paper for me—this was in 1847.

4th int. Was he or not ever employed by you as your agent? if yea, for how long a time?

4th ans. He continued to indorse for me, and to do my financial business, or a portion of it, up to the spring of 1850.

5th int. Do you know the "Air-Tight, 1849, Granite State Stove?" if yea, where and when did you first know it; by whom was the plan originated and carried out?

5th ans. I first had some conversation about that stove with Winslow Ames, at the Bromfield House, in Boston—I should think in the fall or winter of 1848. The stove was got up by Hartshorn & Ames, at Nashua.

6th int. In what manner, and under what circumstances did you first become acquainted with this stove?

6th ans. They got up the patterns, and I agreed to cast a thousand stoves from those patterns; I became acquainted with the stove from conversations with them both before and after the patterns were made.

7th int. Was the said stove of peculiar pattern and form? did it differ from other stoves known to you? if yea, in what respect?

7th ans. It differed in some respects; it differed in its principle of the use of its dampers, and in carrying the flue around the oven, from any stoves I had seen.

8th int. Has or not said stove found a ready sale in the market? what has been its character and reputation as compared with other stoves known to you in the market?

8th ans. Its reputation as a stove has been good, as far as I have known it. It has been called one of the first class of stoves. I have always understood that they have met with a pretty ready sale.

9th int. Did you or not, early in the year 1849, make any and what agreement with Messrs. Hartshorn and Ames, relative to the said stoves? if yea, state where you made this agreement, with whom, and what it was? State fully.

9th ans. I did make an agreement with them early in 1849; the contract, I think, was completed at Nashua. I made it with James Hartshorn and Winslow Ames. They were to make the wood patterns, and deliver them at my furnace, in Norton. I agreed to take the patterns off in iron, and to clean up the iron patterns; they were to pay me for the castings. I was to file them up, and to fit them to cast from; and for cleaning up those patterns I was to have the liberty to sell the stove in Bristol County, and in the State of Rhode Island and Connecticut, if I recollect right. I was to make a thousand stoves, and when I had done that, they were to let me take off another set of patterns, so that I could furnish the stoves for the district I have already stated; this was to be done on such terms as we should agree upon.

10th int. Was or not the plan of said stove designed by said Hartshorn & Ames before they began to negotiate with you?

10th ans. I had some idea of getting up a stove myself, but after learning their plans I abandoned the idea, and made this contract with them—that is, after learning that they were fitting up a stove themselves.

11th int. Were you or not under said agreement to make said stoves, as the agent of said Hartshorn & Ames?

11th ans. I was.

12th int. Were you or not to have any interest in the iron patterns, or wooden patterns, under said contract? To whom did they belong?

12th ans. The patterns belonged to Hartshorn & Ames, according to the contract I made with them. I had an interest in the iron patterns, to use them as patterns for the stoves I was to sell under my contract in Bristol County, Rhode Island, and Connecticut. I had no other claim on them than that.

13th int. Did you under said contract make for Hartshorn & Ames any, and how many, stoves at the Norton Furnace?

13th ans. We have made there for them about eighty stoves, besides some odd plates and pieces.

14th int. Did you or not meet with any, and what difficulty in making said stoves; if yea, what was it?

14th ans. After we commenced casting them, some alterations were suggested, and the patterns were carried to Nashua and altered. I sent them to Hartshorn & Ames, and they came back altered. I never was charged with the alteration.

15th int. Were said patterns, when first sent to you, in good condition? At whose suggestion were such alterations made?

15th ans. I do not now recollect but what they were. The alterations were made at the suggestion of Hartshorn & Ames, if I recollect right. I think the patterns were in a good condition when they came.

16th int. Did you or not supply Messrs. Hartshorn & Ames with stoves, under said contract, as fast as they wanted them? if not, why not?

16th ans. I suppose they did not get them as fast as they wanted them. One delay was because they did not receive their patterns as soon as they expected; another was, we were troubled with our help, they were not paid. T. J. Coggeshall was then employed to do the financial part of our business.

17th int. Did or not said Coggeshall furnish you with money to pay your hands; had he or not agreed so to do?

17th ans. He had agreed with me to furnish me with money. He did not furnish it as he agreed to.

18th int. Were you or not prevented from fulfilling your agreement with Hartshorn & Ames because said Coggeshall did not furnish money, as agreed?

18th ans. I was; I thought so then, and think so now.

19th int. When did you begin to make these stoves at Norton, and how long did you cast them there?

19th ans. I think we began in May, and that we stopped some time in July.

20th int. Did or not said Ames come to Norton, and have a conversation with you and T. J. Coggeshall some time in July? if yea, what was it, and where was it?

20th ans. He did, some time in July, 1849, at the furnace; Coggeshall proposed carrying those patterns to Fall River, or a portion of them, and with consent of Hartshorn & Ames it was agreed that they should be carried to Fall River. The stoves were to be cast the same as at Norton, under the contract. It was agreed that the patterns should go to a furnace in the possession of Albert Sherman. Coggeshall said he could get a lease of him of the furnace.

21st. int. Did said Coggeshall say he could get a lease of the furnace at Fall River for you, or for himself? Were or not the stoves to be made by you at Fall River as agent of Hartshorn & Ames?

[Respondents object to this interrogatory.]

21st ans. He said he could get it for us, he could get it—we could have it—and those stoves were to be got out the same as if they were got out at my place.

22d int. Did you authorize said T. J. Coggeshall to buy that lease for you, and did you direct him so to do?

22d ans. I think I did; it was understood between him and me that T. J. Coggeshall and myself were to hire the furnace to get the stoves out.

23d int. Was said lease to be purchased by Coggeshall for you or for himself?

23d ans. I expected that it was to be purchased for myself; that was my understanding.

24th int. How were you to make said stoves at Fall River, for whom, and under what agreement?

24th ans. Under the contract before testified of with Hartshorn & Ames.

25th int. Did said Hartshorn & Ames ever, to your knowledge, agree with said T. J. Coggeshall that he should make their stoves for them?

25th ans. Not to my knowledge.

26th int. In what capacity was said Coggeshall acting at that time; what relation did he bear to you?

26th ans. He was doing my financial business, and the understanding was, that he was to have a share of the profits; and he took it upon himself to make that arrangement.

27th int. What compensation was said Coggeshall to have for his services?

27th ans. He was to have one-half of the net profits and loss.

28th int. To whom were the patterns charged which were sent to Fall River, to whom directed, and by whom?

28th ans. To myself. The stoves were to be made by me there the same as at Norton. After the stoves were cast at Fall River, and some, I think, had been sent to Boston, Coggeshall said to me, you had better call this concern T. J. Coggeshall & Co., just by way of distinction.

29th int. Was said Coggeshall to have any property in common with you under said agreement?

[Respondents object to this interrogatory.]

29th ans. Nothing, except the profits and loss.

30th int. Did you ever do business with him as a partner; did he ever use your name, or any other, as a partnership name?

30th ans. No, not to my knowledge. It was proposed for him to go into partnership, but he suggested that he could not then indorse my paper, and so we went on under this arrangement.

31st int. Were said patterns sent to Fall River, and there manufactured by you at that foundry; if yea, for how long a time?

31st ans. They were sent there and manufactured there under this arrangement with Hartshorn & Ames till some time in the winter of 1849 or 1850.

32d int. Were they or not sent by you to Fall River by your orders, to complete your contract with Hartshorn & Ames?

[Respondents object to this interrogatory.]

32d ans. Yes, they were.

33d int. For what purpose were said patterns sent to Fall River by you?

33d ans. They were sent to get out this contract with Hartshorn & Ames.

34th int. Had you, under your agreement with Hartshorn & Ames, any right to take copies from said patterns?

[Respondents object to this interrogatory.]

34th ans. I had no right, except for the purposes above stated.

35th int. Were the terms of your agreement with Messrs. Hartshorn & Ames known to T. J. Coggeshall?

35th ans. They were. The contract with them was rehearsed over before him in Boston, previous to the stoves being made.

36th int. Did you make any part of the stoves whose patterns were sent to Fall River at your Norton Furnace, after they were sent? if yea, why?

36th ans. The furniture of the stove, such as the pots, kettles, and spiders, were.

37th int. Who settled with Messrs. Hartshorn & Ames for the stoves which were made at Fall River, and when, and how?

37th ans. T. J. Coggeshall told me, when I spoke about the money that he had received of Hartshorn & Ames, that I had nothing to do with it. I think it was mentioned at this time that he had received three thousand dollars in cash, and the same amount in notes from them.

38th int. Did you ever sell any of these patterns to either of these

respondents—did either of them offer to buy, and did you sell? if not, why not?

38th ans. In February, 1850, I think, I was in Boston, and met T. J. Coggeshall, and he said to me, "make a bill of those patterns to Cook Borden & Co." I was in a hurry, and made no reply. A short time afterwards I was at his house, and he said, "let us have one thing finished. Make a bill of those patterns to Cook Borden & Co." I replied, that those patterns were not mine to sell, and that they belonged to Hartshorn & Ames. At both times he told me to charge Cook Borden & Co. a thousand dollars for cleaning them up. I told him I should not make any such charge till we had had a settlement of other things. I never made the charge, and never sold the patterns.

39th int. Did the patterns at that time belong to you? if not, whose were they?

39th ans. The patterns belonged to Hartshorn & Ames. They were carried to Fall River by their consent. They did not belong to me any further than my interest to make stoves for Bristol County and elsewhere, as before stated.

40th int. Did Messrs. Hartshorn and Ames ever, to your knowledge, authorize T. J. Coggeshall to act as their agent?

40th ans. I do not know as they did. I should think not.

41st int. Did you or not give up to Hartshorn & Ames your right to take the copies, and release the same?

41st ans. I did, about the time that this action was commenced.

42d int. Did you ever abandon your contract with Hartshorn & Ames?

42d ans. I did not know that I ever did.

43d int. Did or not T. J. Coggeshall agree to manufacture the stoves at the Fall River Foundry for you?

[Respondents object to this interrogatory.]

43d ans. They were to be got out the same as they would have been at my place.

44th int. Did or not said T. J. Coggeshall undertake to make the stoves for the complainants upon the same terms as you had?

[Respondents object to the preceding interrogatory.]

44th ans. They were to be made on the same terms. I knew of no alteration.

45th int. For whom were said stoves to be made at Fall River? by whom, and upon what terms?

45th ans. These patterns were to be carried down to Fall River, and the stoves were to be got out the same as at my shop.

46th int. Why did you send the patterns to Fall River; why did you not continue to manufacture the stoves at Norton?

46th ans. In order to fulfil my contract with Hartshorn & Ames.

47th int. How were the patterns sent to Fall River by Hartshorn & Ames marked, and to whom were they directed?

47th ans. They were marked "Granite State Air-Tight Stove,"

I think, and I think they were directed to myself, care of William Coggeshall.

48th int. Who hired the Foundry at Fall River when you sent the patterns from Norton there, and how was it to be connected with the Norton Furnace, if at all?

48th ans. T. J. Coggeshall told me he had hired the Furnace for me, and the stoves were to be got out the same as at Norton.

49th int. Did or not Hartshorn & Ames consent that T. J. Coggeshall should take the patterns to Fall River?

49th ans. They did.

50th int. Who composed the firm of Cook Borden & Co., at the time you hired this Foundry?

50th ans. I knew of no one except William Coggeshall and Cook Borden.

51st int. Who owned the Fall River Foundry at the time you hired it?

51st ans. The property was owned by Cook Borden & Co., as I understood.

52d int. Did Cook Borden and W. J. Coggeshall know the terms of your contract with Hartshorn and Ames?

52d ans. I have no doubt they did.

53d int. Did you ever see either Cook Borden or William Coggeshall at the Fall River Foundry? if yea, how often, and what were they doing, and when was it?

53d ans. I saw them there when the patterns were first carried there. I was there seldom myself. They were conversing about blowing the furnace and putting it into a state for operation, with myself and T. J. Coggeshall.

54th int. By whom were the accounts and bills of the Fall River Foundry made out while stoves were being made there under this contract?

54th ans. By William Coggeshall, and a man who was clerk in the Union Bank.

55th int. Did either William Coggeshall or Cook Borden ever object to the terms of your agreement with Hartshorn & Ames?

55th ans. Not to my knowledge.

56th int. Who, if any one, were concerned with T. J. Coggeshall in the manufacture of the stoves from the patterns at Fall River, under the contract?

56th ans. I suppose that Cook Borden & Co. were connected with him.

57th int. Upon what terms were those patterns sent to Fall River Furnace, and to be there manufactured?

57th ans. On the same terms as my contract with Hartshorn & Ames. I had no knowledge of any other.

58th int. Were Hartshorn & Ames supplied from the Fall River Foundry with the Air-Tight Granite stoves under the contract with Hartshorn & Ames?

58th ans. They were.

59th int. Did or not Cook Borden & Co. send such stoves so made by them to the store of Hartshorn & Ames, in Boston, under your contract?

59th ans. They did.

60th int. Did they or not make stoves from these patterns, and mark the stoves "Air-Tight Granite State Stoves?"

60th ans. They did.

61st int. How many stoves were made at the Fall River Furnace before a settlement was had?

61st ans. I think between four and five hundred stoves.

62d int. When was this settlement made with Hartshorn & Ames, by whom, and how much money was paid?

62d ans. The first payment was made about January 1, 1850; the amount was about six thousand dollars; the payment was to William Coggeshall.

63d int. Was or not the privilege allowed you of selling said stoves on your own account a personal privilege? Was it ever given to Cook Borden or William Coggeshall, or T. J. Coggeshall by Hartshorn & Ames, or assigned by you to them?

63d ans. It was a personal privilege. It was never given or assigned to them to my knowledge.

64th int. Did you ever exercise the right of taking off a set of patterns for your own use? if not, did you ever transfer it to the respondents, or either of them? What have you done relative to it?

64th ans. I never did, except to fulfil this contract with Hartshorn & Ames. I never transferred it to the respondents. I released it about the time of the commencement of this suit to Hartshorn & Ames.

65th int. Were the patterns ever yours? to whom did they belong?

65th ans. They were never mine except to fulfil this contract; they belonged to Hartshorn & Ames.

66th int. Were you or not to have the privilege of taking copies of said patterns, under said agreement? if not, what agreement was made relative thereto?

66th ans. If they took the patterns away I was to have copies at a reasonable price.

67th int. Did you ever, prior to May 1, 1850, abandon your contract with said Hartshorn & Ames, or were you ever before then released by them from your obligations under it?

67th ans. Not to my knowledge.

68th int. Under your contract with Hartshorn & Ames, within what time were the stoves to be delivered by you?

68th ans. They were to be manufactured within that year; but they were not all manufactured and delivered till some time in 1851.

69th int. Was or not T. J. Coggeshall present when you made this

agreement with Hartshorn & Ames, and did he know its terms, and join in the conversation by which it was made?

69th ans. He was present when it was rehearsed over between me and Hartshorn & Ames. I remember that he talked it over with us at that time.

70th int. In what capacity were you employed by said Hartshorn and Ames, to make said stoves under said agreement?

70th ans. I was employed as their agent.

71st int. Were you authorized to employ such persons as you thought proper, to enable you to complete said contract?

71st ans. I was not authorized to place the patterns in any one else's hands, without their consent.

72d int. Did or not Messrs. Hartshorn & Ames consent that T. J. Coggeshall should take these patterns to Fall River?

72d ans. They did, in order to fulfil this contract.

73d int. Was or not T. J. Coggeshall your agent to attend to the manufacture of said stoves at Fall River? if yea, did Hartshorn & Ames know this? if so, did they ever assent to his being employed by you?

73d ans. He was my agent, and they assented to it.

74th int. Did you ever consent that either T. J., or William Coggeshall, or Cook Borden, should use those patterns on their own account, or otherwise than as your agents, to fulfil your agreement with Messrs. Hartshorn & Ames?

74th ans. No.

75th int. Please explain what you mean when you say that you did not consider T. J. Coggeshall was agent of Messrs. Hartshorn & Ames, nor employed by them to make said stoves?

75th ans. I mean that the contract originally was made with me and not with him.

76th int. Was not said T. J. Coggeshall, and all whom he should employ, or with whom he should associate to make said stoves, bound to carry out the terms of your contract with said Hartshorn & Ames?

76th ans. I considered it so.

77th int. Have you ever sold any of these iron or wooden patterns to these defendants, or have you ever refused so to do upon request by them that you should? if yea, state the circumstances.

77th ans. I never have sold them any patterns; I refused to sell them always, as stated in a previous answer.

78th int. Did you deliver to Messrs. Hartshorn & Ames the patterns in your possession when you ceased to make stoves under the contract?

78th ans. I did not, because they were all at Fall River.

79th int. Did or not Messrs. Cook Borden & Co. deliver them to Hartshorn & Ames?

79th ans. I was not at the Fall River Foundry, and therefore do dot know.

80th int. In whose name was the account against you kept by Hartshorn & Ames when the patterns went to Fall River?

80th ans. Norton Furnace.

81st int. What change was made, when, and by whose direction?

81st ans. The account was changed into T. J. Coggeshall & Co. first, then to Fall River Iron Foundry, and then to Cook Borden & Co.; this last change was made previous to the first payment.

82d Int. Have you received from Hartshorn & Ames any money for the stoves made at Fall River; if not, why not?

82d ans. Not for those manufactured at Fall River; it was received by Cook Borden & Co., and they never would pay it to me.

Cross Interrogatories.

In answer to the following cross interrogatories, put by W. P. Sheffield, Esq., counsel for the respondents, the said deponent further deposeth and saith:—

1st cross int. When, where, and with whom did you first commence negotiations in relation to the patterns for the Granite State Stove?

Ans. to 1st cross int. The first conversation I think was in Boston; the negotiation was completed at Nashua, in the fall or latter part of the year 1848; the conversation in Boston was with Ames, at Nashua was with Hartshorn & Ames.

2d cross int. What was the occasion of your going to Nashua?

Ans. to 2d cross int. It was about getting up the pattern—to consult about the principle or plan of the stove.

3d cross int. Who was present at Boston, and who at Nashua, when you conversed with the complainants?

Ans. to 3d cross int. Blanchard, the clerk of the complainants, was present at Boston. I do not recollect who was present at Nashua except Hartshorn & Ames.

4th cross int. Whereabouts in Boston did you first converse with Ames in relation to this stove?

Ans. to 4th cross int. I am not quite certain whether the first conversation we ever had was in Boston or at Norton Furnace; but our first conversation on the subject *in Boston* was at the Bromfield House.

5th cross int. Did you receive any letter or letters from the complainants in relation to your negotiations with them about the patterns for this stove, and if you did, will you now produce them, or will you hereafter cause them to be annexed to your deposition?

Ans. to 5th cross int. I do not now recollect any such letters, but if I have them I will hand them to the commissioner, to be annexed to this deposition.

6th cross int. How long was it from the time you commenced your negotiations with the complainants to the time you concluded them?

Ans. to 6th cross int. I have no recollection of the length of the interval.

7th cross int. How long were you at Nashua?

Ans. to 7th cross int. If I recollect right, I went up one day and came back the next; I staid one night, certain.

8th cross int. Did you write any letter or letters to the complainants in relation to the patterns before you entered into a contract about them?

Answer to 8th cross int. I do not recollect having written any letters to them on that subject. I might have made an engagement to meet him in Boston by letter.

9th cross int. Was the contract between you and the complainants in relation to the patterns in writing?

Ans. to 9th cross int. I believe it was not.

10th cross int. Do you know whether the contract was or was not in writing?

Ans. to 10th cross int. I think it was not.

11th cross. int. Will you give a direct answer to the last interrogatory?

Ans. to 11th cross. int. I have no recollection of ever seeing any written contract.

12th cross int. Did you make any memorandum in writing of the contract at the time it was made?

Ans. to 12th cross int. I do not remember whether I did or not.

13th cross int. Do you know the name of the mechanic who made the patterns?

Ans. to 13th cross int. I think his name was Tibbets, but am not positive; he was from New York, I think.

14th cross int. Where and how often did you see Tibbets while the patterns were being made?

Ans. to 14th cross int. I cannot say certain whether I saw him once or twice. I saw him only at Nashua.

15th cross int. What was the occasion of your seeing Tibbets?

Ans. to 15th cross int. On my way to Concord or Manchester, I stopped at Nashua over night, and Tibbets was then there working on the patterns.

16th cross int. Did you give Tibbets any directions in relation to the manufacture of these patterns?

Ans. to 16th cross int. I do not recollect as I did, because the principle of the stove had been already agreed upon between Hartshorn & Ames and myself, and they were to get the patterns made.

17th cross int. Do you know whether T. J. Coggeshall saw Tibbets or Hartshorn & Ames, or either of them, during the pendency of these negotiations?

Ans. to 17th cross int. I do not.

18th cross int. When and where did you receive any portion of

the patterns of wood from Hartshorn & Ames, and when did you first receive them all?

Ans. to 18th cross int. Hartshorn & Ames sent the patterns to Norton; they were sent at different times; I think the last were sent in July, 1849.

19th cross int. Do you affirm that all the patterns were sent to Norton before August 1, 1849?

Ans. to 19th cross int. I do not say positively that they all were.

20th cross int. What was the condition of the patterns when you received them at Norton? Were they afterwards altered? if so, in what particulars?

Ans. to 20th cross int. We received the patterns at Norton, took them off in iron, and cleaned them up, and cast quite a number of parts of stoves from them; then a part of these patterns were sent back to Nashua to be altered; the bottom of the stove was altered; I think several pieces were sent up to be altered.

21st cross int. Did the complainants send the patterns to Norton as soon as they agreed to send them, and if not, how long did they delay in sending them beyond the time agreed on?

Ans. to 21st cross int. The first set we were to have the first of March, or the first of April, but we did not get them there till a month or two after; there was a delay from one to two months in the second set; there was not any of them got out as soon as we had anticipated.

22d cross int. How many of the stoves did you cast and finish up at Norton?

Ans. to 22d cross int. Between seventy-five and a hundred. I cannot exactly say. There were parts of stoves cast at Norton that were completed and set up at Fall River.

23d cross int. When did you cease to manufacture this stove at Norton?

Ans. to 23d cross int. I cannot tell the date.

24th cross int. About when did you cease to manufacture? Did you manufacture any of the stoves at Norton after August 1, 1849?

Ans. to 24th cross int. I cannot state more distinctly. I think we did manufacture parts of the stoves at Norton after August 1, 1849.

25th cross int. In whose custody are your books at this time?

Ans. to 25th cross int. In my assignee's, A. Bassett, Esq., of Taunton.

26th cross int. How do know that any of the castings that were made at Norton were set up at Fall River?

Ans. to 26th cross int. They were sent there for that purpose, and I suppose they were.

27th cross int. Do you not know that the castings sent to Fall River by you, were so imperfect that they were not used, and were thrown aside as worthless?

Ans. to 27th cross int. No.

28th cross int. Did you make, and send to Boston to be put up, parts of the stove, or did you make, and send to Boston, only the furniture or ware for the stove?

Ans. to 28th cross int. He made ware, to be put on the stoves, at Boston. I cannot say certain whether we made other parts or not.

29th cross int. Have you ever made any contract with T. J. Coggeshall in relation to this stove, which was reduced to writing?

Ans. to 29th cross int. I have made no such contract with him, to my knowledge.

30th cross int. Was T. J. Coggeshall present at any time when you were negotiating in relation to this stove with Hartshorn & Ames, or either of them?

Ans. to 30th cross int. After I had made the contract with Hartshorn and Ames, Coggeshall was present in their counting-room with me, and Ames, I think, rehearsed over the contract to him. He was also present when it was agreed that the patterns might be sent to Fall River, but he was not present at any other time, according to my recollection.

31st cross int. Who was present in Boston, when you say Coggeshall was there, and when Ames rehearsed the terms of the contract between yourself and the complainants?

Ans. to 31st cross int. Abner J. Blanchard, their clerk, was present, but no one else, according to my recollection.

32d cross int. When did this conversation in Boston take place?

Ans. to 32d cross int. The date I cannot state. It was after the contract was made, and previous to the patterns being sent to Norton.

33d cross int. What was the occasion of your meeting with the complainants and Coggeshall in Boston, at the time of that conversation?

Ans. to 33d cross int. I do not recollect.

34th cross int. What was the occasion of your meeting Coggeshall and Ames at Norton when you conversed there?

Ans. to 34th cross int. That was my place of residence, and they came there. It is my impression that Ames was at Coggeshall's the night before, because I think my clerk told me he had carried him there.

[The complainants object to the foregoing answer as incompetent evidence.]

35th cross int. Who was present at that conversation?

Ans. to 35th cross int. Edward S. Slade.

36th cross int. Have you had a difficulty with Thomas J. Coggeshall?

Ans. to 36th cross int. There is not a very good understanding between us.

37th cross int. Were you a partner in the firm of William M. Snow & Co., a copartnership lately doing business in Providence?

Ans. to 37th cross int. I owned the stock in a store in Providence,

one-half of it was sold to William M. Snow. There were no articles of copartnership ever signed between us, to my recollection.

38th cross int. Have you, before this, testified that you were a member of that firm? did you so testify before D. Perkins, a Commissioner in Insolvency?

Ans. to 38th cross int. I stated before D. Perkins the same as I have here, if I recollect right.

39th cross int. Was there a litigation and difficulty between the firm of William M. Snow & Co. and the Fall River Foundry Company?

Ans. to 39th cross int. I have heard that there was litigation between those firms. I have heard that there was difficulty between them.

40th cross int. Have you always said that the iron patterns which were to be taken off by you, under your agreements with the complainants, were to be the property of the complainants?

Ans. to 40th cross int. I never said those iron patterns belonged wholly to me. I do not think I have always said they were the property of the complainants. I myself had an interest in them under the contract.

41st cross int. Have you said that, after you completed your contract with the complainants to manufacture the thousand stoves, that the iron patterns were to be yours?

[Complainants object to the foregoing interrogatory.]

Ans. to 41st cross int. All I have said is this: If they took away the wood patterns, I was to have the privilege of a set of iron patterns, at such a reasonable price as we should agree upon.

42d cross int. Have you ever said that the iron patterns were to be yours, and that, if Hartshorn and Ames wanted a set of patterns, they were to have it, by paying you for them?

[Complainants object to the foregoing interrogatory.]

Ans. to 42d cross int. No.

43d cross int. Did you state, in the presence of John LeBaron, in Taunton, that the iron patterns were yours, or words to that effect?

[Complainants object to the preceding interrogatory.]

Ans. to 43d cross int. I have no recollection of any conversation, in reference to the iron patterns, in the presence of John LeBaron.

44th cross int. Do you say that you did not state to John Le Baron, or in his presence, that the iron patterns were to be yours, or words to that effect?

Ans. to 44th cross int. I have no recollection of any such conversation.

45th cross int. If you had so stated, would you have recollected it?

Ans. to 45th cross int. I do not know whether I should have recollected it or not.

46th cross int. Was your statement to LeBaron, if you made any such, in relation to the ownership of these patterns, true, or otherwise?

Ans. to 46th cross int. I presume it was.

47th cross int. Have you stated to Aaron B. Nott that the iron patterns were yours, or words to that effect?

[Complainants object to this interrogatory.]

Ans. to 47th cross int. I have no recollection of stating anything of the kind to Nott.

48th cross int. Did you state anything to Nott, in relation to the title of those patterns, that was not true?

Ans. to 48th cross int. I presume not—neither to him, nor to any one else.

49th cross int. Did you, at any time during the winter or spring of 1850, state to William Harvey, in Taunton, that those iron patterns were your property, or anything to that effect?

[Complainants object to this interrogatory.]

Ans. to 49th cross int. I might have so stated to him. I considered those patterns mine till that contract was fulfilled.

50th cross int. Did you state to John LeBaron, or Aaron Nott, or in their presence, or in the presence of either of them, in Taunton, in the winter of 1849–50, that the iron patterns were yours, and that Hartshorn and Ames were to have from you a set of patterns at a reasonable price, or words to that effect?

Ans. to 50th cross int. I have no recollection of any such conversation.

51st cross int. Have you at any time stated to William Coggeshall that the patterns of iron were your property, or words to that effect?

Ans. to 51st cross int. I have often said that the patterns were mine. I might have said this to William Coggeshall, though I have now no recollection of it.

52d cross int. Did you make such statement in his presence in Boston, January 10th, 1850, on Tremont Street, and while you were in company with him and others, on your way to the Providence depot?

Ans. to 52d cross int. I have no recollection of anything of the kind.

53d cross int. Do you know, or have you heard from the plaintiffs that other persons than the defendants manufactured a stove called and known by the name of "The Granite State Stove?"

Ans. to 53d cross int. I never saw or heard of any such stove, except the one manufactured at my place, Fall River and Nashua.

54th cross int. Have you, since your cross examination on the third day of September, examined your file of letters to ascertain if you received any letters from the plaintiffs, or either of them, in relation to your negotiations with them about the patterns for the stove?

Ans. to 54th cross int. I have not made much of a search. I have not found any such letter.

55th cross int. Do you intend to make an examination, and to

ascertain if you have any letter or letters from them, or either of them, upon that subject?

Ans. to 55th cross int. I am willing to do so.

56th cross int. More than a month has transpired since you said you would furnish such letters, if you had them: Why have you not furnished them?

Ans. to 56th cross int. No such memorandum was given me, and I did not know that I was expected to furnish them. I recollect such a question being asked.

67th cross int. Did you ever make out, or cause to be made out, an account against the Fall River Foundry Co., or T. J. Coggeshall & Co., or any other person, which contained charges for the patterns of iron?

Ans. to 57th cross int. I never made any such account against the Fall River Foundry Co., or T. J. Coggeshall & Co., or against any one else, to my recollection.

58th cross int. How were the patterns marked and directed when you say you sent them to Fall River?

Ans. to 58th cross int. I can't positively say, but I think they were directed to the care of Cook Borden & Co.

59th cross int. Do you know of your own knowledge of the receipt of any money or notes by T. J. Coggeshall from the plaintiffs, or have you heard Coggeshall say that he received any such money or notes for the Granite Stove?

[Plaintiffs object to the preceding interrogatory.]

Ans. to 59th cross int. I do not know, of my own knowledge, of the receipt of any money or notes. I cannot say positively that he ever told me that he himself ever received any of the plaintiffs, for this stove.

60th cross int. Do you know, of your own knowledge, of the receipt of any money from the plaintiffs, by William Coggeshall, or have you heard William Coggeshall say that he received any money from the plaintiff for the Granite State Stove?

Ans. to 60th cross int. I do not know personally of the receipt of any money by William Coggeshall, of the plaintiffs. I cannot say that ever he told me that he had received any.

And in answer to the following direct interrogatories the said deponent further saith:—

1st direct. If you have ever stated that the iron patterns were yours, did you mean that they were yours absolutely, or only for the purpose of completing the contract with Hartshorn & Ames?

Ans. to 1st direct. I meant that they were mine for the purpose of the contract.

ANNES A. LINCOLN.

UNITED STATES OF AMERICA,
District of Massachusetts, ss.

I, Elias Merwin, a commissioner duly appointed by the Circuit Court of the United States for the District of Massachusetts, do hereby certify that the reason for taking the foregoing deposition is, that the testimony of the witness aforesaid is necessary in the cause in the caption of the said deposition named, and that his place of residence is more than one hundred miles from the place of trial; that the time and place of taking the said deposition were agreed upon by the said parties and their respective counsel. That on the twenty-fifth day of May, on the twenty-fifth day of August, the third day of September, and the sixth day of October, all in the year one thousand eight hundred and fifty-two, I was attended by John A. Loring, Esq., solicitor for the plaintiffs, and Messrs. Geo. T. Curtis and W. P. Sheffield, counsel for said respondents, and by the said witness; and the said witness was by me carefully examined and cautioned, and affirmed to testify the truth, and the testimony by him given was by me reduced to writing, and thereafter subscribed by the said witness in my presence. And, that I am not of counsel or attorney to either of the parties, nor in any way interested in the event of the cause named in the said caption.

ELIAS MERWIN,
U. S. Commissioner for the District of Massachusetts.

August 13, 1853. Opened by consent of parties.

Attest, H. W. FULLER,
Clerk.

CIRCUIT COURT OF THE UNITED STATES
for the District of Massachusetts.

JAMES HARTSHORN *et al.*
vs.
WILLIAM COGGESHALL *et als.*

UNITED STATES OF AMERICA.

CIRCUIT COURT OF THE U. S.,
Massachusetts District, ss. } In Equity.

On this twelfth day of October, A. D. one thousand eight hundred and fifty-two, before me, Elias Merwin, a commissioner duly appointed under the laws of the United States, by the Circuit Court of the United States for the Massachusetts District, personally appeared Edward S. Slade, a witness for the complainants in a certain suit in Equity, now pending before the Circuit Court of the United States for the District of Massachusetts, in which James Hartshorn *et al.* are complainants, and Thomas J. Coggeshall *et als.* are respondents.

And the said Edward S. Slade having been by me first duly

cautioned and affirmed to testify the truth, the whole truth, and nothing but the truth, did depose and say, in answer to the following interrogatories, propounded by J. A. Loring, Esq., solicitor for the complainants:—

1st int. What is your age and occupation, and where do you reside?

1st ans. I am about forty years of age, am a farmer, and reside in Berkley, Mass.

2d int. Were you ever in the employment of A. A. Lincoln? if yea, when, where, how long, and in what business?

2d ans. I was in his employment in the year 1847, in the fall, at Norton, Mass., in the furnace business, and remained there till the winter of 1850. I was the superintendent of the furnace.

3d int. Have you ever seen a stove called the "Air-Tight Granite State Stove," made by A. A. Lincoln? if yea, when did you first see it?

3d ans. I have seen it. The first I ever saw was at Norton Furnace, when the wooden patterns were sent there to be taken off in iron.

4th int. Did you ever hear a conversation between T. J. Coggeshall, Winslow Ames, and A. A. Lincoln, relative to said stoves, or the patterns of them? if yea, when and where?

4th ans. I did hear such conversation at A. A. Lincoln's counting-room, in Norton, some time in 1849, I think in the month of April or May. Mr. Ames wanted Lincoln to get the stoves faster than they had been getting them out, and put down in figures how many stoves he wanted of each kind got out in a certain time, stating it. Mr. Coggeshall then said, "We would get them out; that he had had some talk of getting a furnace in Fall River, and that by so doing he could finish this work." I then stated to Coggeshall that we had been much troubled at Norton in keeping the help, for the reason that they were not paid regularly. He made no reply.

5th int. Was anything said at that time as to sending the patterns to Fall River Furnace? if yea, what?

[Defendants object to the preceding interrogatory.]

5th ans. I do not recollect that there was at that time.

6th int. Were the patterns, at the time of this conversation, at Norton or Fall River?

6th ans. They were at Norton.

7th int. Was Lincoln at that time getting out stoves from the patterns? If yea, how long had he been so occupied?

7th ans. He was, and had been for a short time; I think about two months.

8th int. Were or not those patterns ever sent to Fall River? If yea, for what purpose were they sent, to whom directed, and when were they so sent?

8th ans. They were sent to Fall River some time in the summer of

1849. They were directed to "A. A. Lincoln, Fall River," and were sent there for the purpose of manufacturing the Granite State Stove.

9th int. Upon what terms were said stoves to be manufactured at Fall River?

9th ans. Mr. T. J. Coggeshall told me that they were to be manufactured on the same terms as they were at Norton Furnace.

10th int. When did he so tell you, and where, and who were present?

10th ans. He told me so at Mr. Lincoln's counting-room; it was soon after the patterns had been sent to Fall River; I think about ten days after. Annes A. Lincoln, Jr., was present.

11th int. Was T. J. Coggeshall at the Norton Furnace at or about the time said patterns were sent to Fall River?

11th ans. He was not there the time they were sent, but was two or three days before and after.

12th int. Did you ever hear from T. J. Coggeshall anything relative to a contract between Lincoln and Hartshorn and Ames, as to casting said stoves at Norton?

12th ans. I never did.

13th int. Did said Coggeshall give any directions as to sending said patterns to Fall River, to your knowledge, or did he know that they were to be sent?

13th ans. I never heard him say more than I have already stated in my answer to the 4th interrogatory.

14th int. How soon after the conversation above stated were said patterns sent to Fall River?

14th ans. I should not think it was a month, but it might have been.

15th int. Have you ever had or heard any conversation with or by T. J. Coggeshall relative to the furnace at Fall River, and to the lease of the same? If yea, when and what?

15th ans. He had some conversation with Mr. Ames in my presence, some time in the summer of 1849, which I heard. All these conversations which I heard were within a very few weeks of each other; all about the same time. Mr. Coggeshall told him that the lease of the furnace was in the hands of one Sherman, and that he could have the furnace to manufacture those stoves. They talked a spell about it. The conversation further was in reference to their getting out those stoves at Fall River, the same as I have stated before. This conversation was at Coggeshall's house; Messrs. Ames, Coggeshall, and myself were present during this conversation.

16th int. What directions, if any, did T. J. Coggeshall give you relative to the stoves, or patterns, or castings?

16th ans. The stoves were manufactured at Fall River, but some of the furniture for them at Norton. Such furniture he directed me to forward to Boston for the stoves sent there. He was all the while giving directions.

17th int. Had you any conversation with T. J. Coggeshall after

the patterns went to Fall River, relative to said stoves or patterns? If yea, when, where, who was present, and what was it?

17th ans. I do not remember anything now, further than I have stated. Perhaps I may remember.

18th int. Had you any conversation with T. J. Coggeshall relative to keeping the accounts in said stove business? If yea, what was it?

18th ans. He gave us directions—viz: A. A. Lincoln, Jr., and myself—in making out bills and sending things to Fall River, to make a distinction between Norton Furnace and Fall River Furnace; that they were both one and the same thing, only he wanted the Fall River accounts kept by themselves, so that they should not get mixed; and requested that the Fall River accounts should be made out T. J. Coggeshall & Co.

19th int. Who packed the patterns which were sent to Fall River, to whom were they directed, and what was sent?

19th ans. I helped to pack them. They were directed to A. A. Lincoln. Iron patterns were sent at first, wooden patterns were sent afterwards.

20th int. What was their condition when so sent?

20th ans. Their condition was good.

21st int. Were the wood patterns, while at Norton, repaired or altered? if yea, at whose expense, and what were they; were they considerable or otherwise?

21st ans. They were altered at Hartshorn & Ames' expense. The bottom of the stove did not suit Hartshorn & Ames, and they had it altered. There was considerable other alterations made at their expense.

22d int. Do patterns, when first made, often require alteration? How would these compare with the average of such patterns?

22d ans. Most all patterns require alteration, more or less; these were as good as other patterns. Many of the alterations were made, not because the patterns themselves were not made well, but because of alterations in the stove.

23d int. What is a fair price to pay for castings?

23d ans. About four cents a pound is a fair price for stove castings.

24th int. Were any castings sent from Norton to Fall River? if yea, how many?

24th ans. There were a good many, but I cannot now tell the weight of them.

25th int. Was any charge made of these castings? if not, why not?

25th ans. There was.

26th int. To whom did these iron patterns and wooden patterns belong?

26th ans. They belonged to Hartshorn & Ames; at least I was informed so by Mr. Ames.

[Defendants object to this answer as incompetent.]

27th int. Did T. J. Coggeshall know to whom these patterns belonged?

27th ans. He knew that they belonged to Hartshorn & Ames. He told me that everything we did to these patterns to be sure and charge to Hartshorn & Ames; he told me this various times.

28th int. To whom were the castings charged that were sent to Fall River?

[Defendants object to the preceding interrogatory.]

28th ans. They were charged to A. A. Lincoln, Fall River.

29th int. Did T. J. Coggeshall, to your knowledge, know to whom these castings were charged?

29th ans. He did.

30th int. To whom did he know them to be charged?

30th ans. He knew they were charged to A. A. Lincoln, Fall River.

31st int. Was the price of these patterns carried out on the books of A. A. Lincoln?

31st ans. They were not.

32d int. Did you ever, or not, hear T. J. Coggeshall say anything relative to the charging of said patterns? if yea, what, when, and to whom?

32d ans. He frequently spoke about the price of the iron patterns being carried out, and asked why it was not done. He asked the same of Mr. Lincoln in my presence, and Lincoln replied that he had nothing to do with carrying out the price, as the patterns belonged to Hartshorn & Ames.

Cross Interrogatories.

In answer to the following cross interrogatories, propounded by William P. Sheffield, Esq., counsel for the respondents, the said deponent further deposeth and saith:—

1st cross int. Did you subscribe and make affirmation to an affidavit before Jacob Shepard Esq., on the 17th day of June, 1850?

Ans. to 1st cross int. I did.

2d cross int. How long had you been engaged in the furnace business before you were employed by A. A. Lincoln, if at all; and how long have you been engaged in that business since you left his employ?

Ans. to 2d cross int. I never had been engaged in the furnace business previous to being employed by A. A. Lincoln. I have not been since I left his employment.

3d cross int. How many of the Granite State Stoves were made at the Norton Furnace in 1849?

Ans. to 3d cross int. I cannot say how many—quite a number.

4th cross int. About how many of said stoves were made there during that time; was there a greater or less number than twenty-nine that were marketable?

Ans. to 4th cross int. I cannot state anything about the number.

5th cross int. With what success did Lincoln manufacture the stove at Norton?

Ans. to 5th cross int. He succeeded well as far as he went, so far as I know.

6th cross int. What was the average cost price of manufacturing stove castings?

Ans. to 6th cross int. It varies with the cost of iron.

7th cross int. Do or not the price of castings vary with the price of iron?

Ans. to 7th cross int. They do not.

8th cross int. You say the patterns of iron belonged to Hartshorn & Ames. Do you know anything about it but what Ames told you?

Ans. to 8th cross int. Ames told me they were his, and when there were any alterations made in them they were charged to Hartshorn & Ames.

9th cross int. Do you know anything more about the title to the patterns of iron than you have stated in your last answer, and if so, what further do you know about it?

Ans. to 9th cross int. I do not know as I do.

10th cross int. When and where did the conversation take place which you say was had by T. J. Coggeshall about the Fall River Furnace?

Ans. to 10th cross int. The conversation took place at his house, sometime in the course of the summer of 1849, before the patterns were sent to Fall River.

11th cross int. Were any other persons present at any of the conversations about which you have testified as having been had by T. J. Coggeshall than those you have already named?

Ans. to 11th cross int. No.

12th cross int. Do you swear that T. J. Coggeshall ever said the patterns of iron were the property of Hartshorn & Ames; and if so, when was it, where was it, and who was present?

Ans. to 12th cross int. I do not swear that he ever said directly that the iron patterns were the property of Hartshorn and Ames.

13th cross int. Did he say to you more or less about the title of the patterns of iron than that all repairs on them must be charged to Hartshorn & Ames?

Ans. to 13th cross int. I do not recollect.

14th cross int. Was T. J. Coggeshall in any way interested in business with Lincoln in 1849, and if so, how?

Ans. to 14th cross int. I know nothing about it further than that he was at the furnace frequently.

15th cross int. Do you say that T. J. Coggeshall ever told you that Lincoln was to be in any way interested in the manufacture of the stoves at Fall River? if so, when and where, and in whose presence?

[Plaintiffs object to this interrogatory.]

Ans. to 15th cross int. He never did.

16th cross int. Do you say that T. J. Coggeshall ever told you, or said in your presence, that Hartshorn & Ames were to be in any way interested in the manufacture of stoves at Fall River?

[Plaintiffs object to this interrogatory.]

Ans. to 16th cross int. No.

17th cross int. You say that the patterns that were sent to Fall River were directed to "A. A. Lincoln, Fall River;" do you mean the patterns of wood or the patterns of iron, or both?

Ans. to 17th cross int. I mean the patterns of iron.

18th cross int. About what time were these patterns sent there?

Ans. to 18th cross int. Some time in July or August, 1849.

19th cross int. Was your situation such at Norton that you could know, or that you would be likely to know, much of the contracts and business of T. J. Coggeshall?

[Plaintiffs object to this interrogatory.]

Ans. to 19th cross int. If any contracts were made in my presence I must know it. I know nothing about T. J. Coggeshall. I generally knew from Lincoln what contracts were made in reference to Norton Furnace.

20th cross int. What was the occasion of your being at T. J. Coggeshall's house at the time you say you heard a conversation with Coggeshall and Ames at that place?

Ans. to 20th cross int. I carried Mr. Ames to Mr. Coggeshall's house in my carriage.

21st cross int. How many sizes of the Granite State stove were there, and how many sizes were cast at the Norton Furnace?

Ans. to 21st cross int. There were three sizes of the stove, and these were all got out at Norton Furnace, with the exception of one size which was not completed.

22d cross int. When was it, and where were you, when you say T. J. Coggeshall gave you directions about making out bills of what was sent to the Fall River Furnace?

Ans. to 22d cross int. In the counting-room of Annes A. Lincoln, in July or August, just after the patterns were sent to Fall River.

23d cross int. State as near as you can the precise language used by T. J. Coggeshall at that time.

Ans. to 23d cross int. He wanted us to send the bills directed to T. J. Coggeshall & Co., Fall River; we had previously directed them to A. A. Lincoln, Fall River. He wished them so directed to distinguish them from Norton Furnace, so that the accounts need not be mixed up.

24th cross int. What bills had you sent there made out to A. A. Lincoln, Fall River?

Ans. to 24th cross int. We had sent a bill of the castings, and a bill of the patterns.

25th cross int. To whom were those bills directed?

Ans. to 25th cross int. To A. A. Lincoln, Fall River.

26th cross int. Were they sent by mail or otherwise—and if not by mail, by what conveyance were they sent?

Ans. to 26th cross int. They were sent by mail.

27th cross int. Who put them in the post-office?

Ans. to 27th cross int. Sometimes Mr. Lincoln, sometimes his son, and sometimes myself.

28th cross int. What bill, if any, did you put in the post-office, yourself, directed to A. A. Lincoln, Fall River?

Ans. to 28th cross int. I put in a good many, but do not remember any one in particular.

29th cross int. Do you say that you put a good many bills in the post-office, directed to A. A. Lincoln, Fall River?

Ans. to 29th cross int. I did not say so.

30th cross int. Will you swear that you put any one bill in the post-office, directed to A. A. Lincoln, Fall River?

Ans. to 30th int. I cannot say that I did.

31st cross int. Do you know of your own knowledge, that any other person put any bill so directed in the post-office?

Ans. to 31st int. I do.

32d cross int. Who do you know put any such letter, so directed, into the post-office, and where?

Ans. to 32d cross int. I cannot swear positively who put in any such letter.

33d cross int. Have you ever said that those patterns were ever charged to any person?

Ans. to 33d cross int. I have never said so to my knowledge.

34th cross int. Do you know whether Ames was at Coggeshall's house more than once during the summer of 1849, and whether or not he stopped there during one or more nights?

Ans. to 34th cross int. I never saw him there but once—Coggeshall took him to carry him there once. I do not know whether he remained over night at any time.

35th cross int. Did you ever see the patterns at Fall River?

Ans. to 35th cross int. I have.

36th cross int. Have you had any conversation with either of plaintiffs, A. J. Blanchard or A. A. Lincoln, in relation to the subject of your testimony?

Ans. to 36th cross int. I have not.

37th cross int. Do you know anything about the business of manufacturing stoves at the Fall River Furnace, on whose account it was carried on, or anything in relation to it, during the years 1849 and 1850?

Ans. to 37th cross int. I know nothing more than what I have been informed.

38th cross int. Do you know who furnished the capital to carry on Fall River Furnace?

Ans. to 38th cross int. I do not.

EDWARD S. SLADE.

UNITED STATES OF AMERICA,
District of Massachusetts, ss.

I, Elias Merwin, a Commissioner duly appointed by the Circuit Court of the United States for the District of Massachusetts, do hereby certify that the time and place of taking the foregoing deposition were agreed upon by the parties to the cause in the caption of said deposition named, and their respective counsel; that on the twelfth day of October, A. D. one thousand eight hundred and fifty-two, I was attended by John A. Loring, Esq., solicitor for the plaintiffs, and William P. Sheffield, Esq., counsel for said respondents, and by the said witness; and the said witness was by me carefully examined and cautioned, and affirmed to testify the truth, the whole truth, and nothing but the truth, and the testimony by him given was by me reduced to writing, and thereafter subscribed by the said witness in my presence. And, that I am not of counsel or attorney to either of the parties, nor in any way interested in the event of the cause named in the said caption.

ELIAS MERWIN,
U. S. Commissioner for the District of Massachusetts.

August 13, 1853. Opened by consent of parties.
Attest: H. W. FULLER,
Clerk.

CIRCUIT COURT OF THE UNITED STATES
for the District of Massachusetts.

JAMES HARTSHORN *et al.*
vs.
WILLIAM COGGESHALL *et als.*

UNITED STATES OF AMERICA.

CIRCUIT COURT OF THE U. S.,
Massachusetts District, ss.

In Equity.

On this twenty-fourth day of December, A. D. one thousand eight hundred and fifty-two, before me, Elias Merwin, a Commissioner duly appointed under the laws of the United States by the Circuit Court of the United States for the Massachusetts District, personally appeared Abner J. Blanchard, a witness for the complainants in a certain suit in equity, now pending before the Circuit Court of the United States for said District, in which James Hartshorn *et al.* are complainants, and Thomas J. Coggeshall *et als.* are respondents.

And the said Abner J. Blanchard having been by me first duly cautioned and sworn to testify the truth, did depose and say, in answer to the following interrogatories, by J. A. Loring, Esq., solicitor for the complainants, as follows, viz:—

1st int. What is your age and occupation, and where do you reside?

1st ans. I am thirty years of age, I reside in South Reading, Massachusetts, I am a stove-dealer.

2d int. Do you know Hartshorn & Ames, of Nashua, N. H., Cook Borden & Co., of Fall River, and A. A. Lincoln, of Norton? if yea, how long have you known them?

2d ans. I do know the parties named. Mr. Lincoln I have known five or six years, Hartshorn & Ames for ten years, Cook Borden & Co. since 1849, and Mr. Lincoln for five or six years.

3d int. Who compose the two firms above inquired of?

3d ans. James Hartshorn and Winslow Ames compose the firm of Hartshorn & Ames; Cook Borden and William Coggeshall, I think, compose the firm of Cook Borden & Co.

4th int. Did Hartshorn & Ames plan a stove in the fall of 1848?

4th ans. They did.

5th int. Where were the patterns of that stove made?

5th ans. At Nashua, New Hampshire.

6th int. What was its name?

6th ans. "The Granite State Cook Stove,"—air-tight is upon the stove—"The Granite State Air-Tight Cook Stove."

7th int. Did you ever hear Ames, of the firm of Hartshorn & Ames, repeat the terms of a contract between said firm and A. A. Lincoln, in the presence of T. J. Coggeshall?

7th ans. I did.

8th int. When did you hear this, and where was it?

8th ans. In the fall of 1848, at Hartshorn & Ames' store, in this city.

9th int. What were the terms of the contract, as thus repeated?

9th ans. Hartshorn & Ames, of Nashua, N. H., got up a set of patterns for the Granite State Stove, and the bargain was, that A. A. Lincoln, of the Norton Furnace, was to take the wood patterns to his place, and take a set of iron patterns therefrom, and then to cast stoves for Hartshorn & Ames, at so much per pound, and in consideration of taking off these patterns, Mr. Lincoln was to have a territory to sell them in. Bristol County, I think, was spoken of, Rhode Island, and Connecticut, or some part of it. I am not certain as to the last. I think he was to cast something like a thousand stoves. I think the agreement was that the thousand stoves were to be got out previous to the fall of 1849—October or November, 1849.

10th int. At what price were they to be made?

10th ans. Four cents a pound.

11th int. Within what time were they to be made? are you positive as to the time when your contract was to be completed?

11th ans. I am not positive as to the time. I do not remember exactly about the time, but I think it was the fall of 1849.

12th int. What was to be done with the patterns when the contract was executed?

12th ans. The patterns were to be returned to Hartshorn & Ames.

13th int. How many stoves came from the Norton Furnace?

13th ans. Probably less than one hundred. I do not remember precisely.

14th int. Was said Lincoln to have a right under that contract to take copies from said patterns?

[Respondents object to the preceding interrogatory.]

Ans. to 14th int. He was, in consideration of some trade he could make for them.

15th int. What was said by the parties at that time as to Lincoln's right to take copies from said patterns at the completion of the contract?

[Respondents object to this interrogatory.]

Ans. to 15th int. Mr. Lincoln said he would like to take a set of patterns, if he could make an arrangement so to do, to furnish odd pieces that might be called for after the patterns should be taken away. Mr. Ames told him he presumed he could make an arrangement to sell him a set of patterns at the expiration of the contract.

16th int. Was anything said at that time as to the disposition of the patterns at the expiration of the contract?

Ans. to 16th int. It was said that the patterns were to be returned to Hartshorn & Ames.

17th int. Did you ever, after that time, hear any conversation between T. J. Coggeshall and either of the firm of Hartshorn & Ames relative to these patterns and the manufacture of stoves?

Ans. to 17th int. Mr. T. J. Coggeshall proposed to Mr. Ames that the patterns should be sent down to Fall River to complete the original contract—and Mr. Ames consented to have them go down. After which Mr. Coggeshall was in our store and said to me that the patterns had arrived in good shape, and that we could have stoves as fast as we wanted them—that they should go on and complete the original contract that Lincoln had made. After we had received two or three lots of stoves on the contract from Fall River, T. J. Coggeshall was in the store and said to me, "Let us alter the account, just to designate the stoves which came from Fall River, and those that came from Norton Furnace, but that everything should go on as the same contract as at Norton Furnace." I told him I had no authority to alter the contracts or the books, and that I could not do it, and would not do it.

18th int. Was any payment made by Hartshorn & Ames on account of stoves furnished from Fall River? if yea, when, to whom, and how much?

Ans. to 18th int. There was to Cook Borden & Co., in the spring of 1850, of three thousand dollars, in cash, I believe, and some notes, with the cash, amounting to five or six thousand dollars. This money, I believe, was paid to William Coggeshall.

19th int. Did you, after that time, hear a conversation between Hartshorn & Ames and A. A. Lincoln, in the spring of 1850, when Lincoln released his right to take copies from those patterns?

[Respondents object to this interrogatory.]

Ans. to 19th int. I did.

20th int. Under that contract, as repeated to T. J. Coggeshall, was Lincoln to have any right to take copies from those patterns for his own use?

[Respondents object to this interrogatory.]

Ans. to 20th int. He was to have the County of Bristol and State of Rhode Island, in consideration of taking them off. He was not to have any right to take off any patterns—he had them there to cast from for Hartshorn & Ames.

21st int. State what was said in the conversation inquired of in interrogatory No. 19?

[Respondents object to this interrogatory.]

Ans. to 21st int. Mr. Lincoln, in consideration of some sum, released his right in those patterns to Hartshorn & Ames. I do not recollect the particular conversation that passed between them.

22d int. In answer to interrogatory 9th, do you mean by "*them*," the patterns or the stoves?

Ans. to 22d int. I meant stoves and not patterns, and supposed I had so said.

Cross Interrogatories.

And in answer to the following cross interrogatories propounded by William P. Sheffield, solicitor for said respondents, the said deponent further deposeth and saith:—

1st cross int. Do you know whether Messrs. A. C. Barstow & Co. at any time commenced a suit against Messrs. Hartshorn & Ames and yourself, in relation to the manufacturing of the Granite State Stove?

[Plaintiffs object to this interrogatory.]

Ans. to 1st cross int. There was a suit commenced by them in relation to the Granite State Stove.

2d cross int. Do you know whether or not that suit was prosecuted to final judgment?

[Plaintiffs object to this interrogatory.]

Ans. to 2d cross int. I do not.

3d cross int. When and where was the suit commenced against you by Barstow & Co.?

[Plaintiffs object to this interrogatory.]

Ans. to 3d cross int. I do not know that any suit was commenced against me at all. I can't say when or where said suit inquired of was commenced.

4th cross int. In adjusting that suit did you execute any bond or writing to Messrs. A. C. Barstow & Co., and if so, when and where?

Ans. to 4th cross int. I do not know anything about it, I have forgotten about it.

5th cross int. If there had been a bond or writing executed by you, would you not have recollected it?

Ans. to 5th cross int. I do not know whether I should or not.

6th cross int. Do you not remember that on the 3d day of October, A. D. 1850, you, with Hartshorn & Ames, signed a bond or agreement to or with Messrs. Barstow & Co., conditioned among other things not to manufacture or vend the stove known and called the Granite State Stove?

[The plaintiffs object to the preceding interrogatory.]

Ans. to 6th cross int. I do not.

7th cross int. Are you a member of the same firm with Hartshorn & Ames?

Ans. to 7th cross int. I am.

8th cross int. When did you first form a connection with that firm?

Ans. to 8th cross int. Last March.

9th cross int. Were you in any way interested in the profits or losses of the firm of Hartshorn & Ames before March, A. D. 1850?

Ans. to 9th cross int. I was not.

10th cross int. In what capacity were you connected with their business before that time?

Ans. to 10th cross int. Part of the time I was their salesman, and a part of the time their book-keeper.

11th cross int. Have you been acquainted with the Granite State Stove, from the time it was commenced being manufactured at the Fall River Foundry to the present time, and if so, have you known any modification in the design of that stove as it has been there manufactured, since October 1, 1850?

Ans. to 11th cross int. I have been acquainted with the stove. I know of no modification of the stove at the Fall River Foundry since October 1, 1850.

12th cross int. Where did you reside during the year A. D. 1848?

Ans. to 12th cross int. I think I resided in Boston.

13th cross int. How frequently, if at all, during the year 1848, were you at Nashua?

Ans. to 13th cross int. I was occasionally there. I do not know how often.

14th cross int. Were you there at all while the patterns of wood for the stove were being constructed, and if so, did you visit the place where they were being got up, and if so, how often?

Ans. to 14th cross int. I was there while they were being constructed, and visited the place where they were being made several times.

15th cross int. How many times did you visit the place where the patterns were being made, who went with you, and who did you see there?

[Plaintiffs object to the preceding interrogatory.]

Ans. to 15th cross int. I cannot state how many times I was there. Mr. Ames went with me. I saw no one there except Mr. Bates, the man who was at work on the patterns.

16th cross int. Do you now swear that you know who designed the patterns?

Ans. to 16th cross int. Hartshorn & Ames originated the patterns.

17th cross int. How do you know that Hartshorn & Ames originated the design for the patterns?

Ans. to 17th cross int. They went on and proposed the principle of the stove, and therefore I supposed they designed it.

18th cross int. To whom, and when did they propose the principle of the stove?

Ans. to 18th cross int. To myself in the year 1848, as near as I can recollect.

19th cross int. Were you acquainted with the Bay State Stove, and a stove known and called the Eureka—and did they or not, contain the principles incorporated into the design of the Granite State Stove?

Ans. to 19th cross int. I had seen those stoves, but am not acquainted with the principle of them.

20th cross int. You say that Ames represented to Thomas J. Coggeshall the terms of the contract with Lincoln. When and where did he repeat it, and in whose presence?

Ans. to 20th cross int. He repeated it in 1848, at the store of Hartshorn & Ames, in the presence of Mr. Lincoln, T. J. Coggeshall, and myself.

21st cross int. State what Ames then said to Coggeshall, the commencement of the conversation, and all that was said from that time to its conclusion.

Ans. to 21st cross int. Mr. Ames said to Mr. Coggeshall, that he had made a bargain with Mr. Lincoln for to take a set of patterns of the Air-Tight Granite State Stove to his Foundry in Norton, and he was to take off the patterns, cast stoves therefrom, for so much per pound—about one thousand stoves were to be cast before October, or November, A. D. 1849. In consideration of taking off those patterns, Mr. Lincoln was to have a territory to sell the stoves in, Bristol County, and the State of Rhode Island, and something was said about Connecticut, but what, I do not remember; at the expiration, was to return the patterns to Hartshorn & Ames, subject to their order.

22d cross int. Have you stated all the terms of the contract between Hartshorn & Ames, and Lincoln? if not, please state them.

Ans. to 22d cross int. I have stated all which I now recollect.

23d cross int. Was Ames' conversation directed to Coggeshall, or to Lincoln?

Ans. to 23d cross int. I do not know, as the conversation was di-

rected to one more than another. I do not know, as it was directed more to Mr. Coggeshall than to me. Mr. Ames said, we would have this understood, and so rehearsed the contract to Mr. Coggeshall and myself.

24th cross int. Were you present during the entire conversation which was had between Ames and Lincoln and Coggeshall, on the day to which you refer?

Ans. to 24th cross int. I was present in the counting-room all the while they remained there. Whether they went out and had any further conversation together I do not know.

25th cross int. You seem to recollect the conversation of Ames, as you relate it with considerable accuracy, yet you do not recollect about the Barstow suit, or the executing of any bond or agreement by you, or Hartshorn & Ames, in connection with that suit; how do you account for the accuracy of your recollection in the one case, and the absence of it in the other?

[Plaintiffs object to this interrogatory.]

Ans. to 25th cross int. Because I had considerable interest in the suit of Hartshorn & Ames in relation to those patterns, but the suit of Barstow was a subject which did not concern me. I had no interest with Hartshorn & Ames, no investment, but only interested that the patterns should be returned to Hartshorn & Ames.

26th cross int. When, where, and in whose presence, was the second conversation had with T. J. Coggeshall, which you say was in your presence?

Ans. to 26th cross int. It must have been in the fall of 1848, at our store. T. J. Coggeshall, Mr. Ames, and myself, were present.

27th cross int. Had you, or did you hear any other conversation, than the two about which you have now testified, as having taking place at your store, one in the presence of Lincoln, and both in your presence?

Ans. to 27th cross int. I have had other conversation with Coggeshall, in relation to the patterns.

28th cross int. When, where, and in whose presence, did you have the other conversation with Coggeshall about the patterns, testified of in your last answer?

Ans. to 28th cross int. I had conversation with him in our store, in the fall of 1848. Mr. Ames, I think, was present.

29th cross int. When did Hartshorn & Ames receive the first stoves from the Fall River Foundry?

Ans. to 29th cross int. In or about July, 1848.

30th cross int. Can you state more definitely the number of Granite State Stoves received by your firm from the Norton Furnace?

Ans. to 30th cross int. I cannot.

31st cross int. In what particular, if in any, did the outward design, or configuration of the Bay State Stove differ from the Granite State Stove?

Ans. to 31st cross int. There was a difference in the cutting, carving, &c.

Direct Interrogatories.

And in answer to the following direct interrogatory, by J. A. Loring, Esq., Solicitor for Plaintiffs, the said deponent further saith:—

1st direct. Were the conversations of T. J. Coggeshall, and all the conversations, related in answer to interrogatory 17, in 1848 or 1849? Please be particular, and state as near as you can recollect.

Ans. to 1st direct. The two conversations, I think, were in 1848.

A. J. BLANCHARD.

UNITED STATES OF AMERICA,
District of Massachusetts, ss:

I, Elias Merwin, a commissioner duly appointed by the Circuit Court of the United States for the District of Massachusets, under and by virtue of the laws of the United States, do hereby certify, that the reason for taking the foregoing deposition is, that the testimony of the witness aforesaid is necessary in the cause in the caption of said deposition named—that the time and place of taking said deposition were agreed upon by said parties—that on the twenty-fourth day of December, A. D. one thousand eight hundred and fifty-two, I was attended by the solicitors aforesaid, the said parties, and the said witness—and the said witness was by me carefully examined, and cautioned, and sworn to testify the truth, and the testimony by him given was by me reduced to writing, and thereafter subscribed by the said witness in my presence; and, that I am not of counsel, or attorney to either of the parties, nor in any way interested in the event of the cause named in the said caption.

ELIAS MERWIN,
U. S. Commissioner for the District of Massachusetts.

Additional Interrogatories.

1st. addit. int. Are there any corrections or alterations which you wish to make in any of your answers in the preceding deposition? if yea, please state them.

Ans. In my answer to interrogatory 6th, I wish to state that the stove is generally known as "the Granite State Stove." In my answer to interrogatory 8th, I wish to state that the contract was rehearsed in January, 1849, or thereabouts, instead of fall of 1848. In my answers to interrogatories 9 and 11, I wish to state, that the stoves were to be got out by January, 1850, instead of October, or November, 1849. In my answer to the 18th interrogatory, I wish to say, that the payment was made in January, 1850, and not in the

spring of 1850. In my answer to the 20th cross interrogatory, I wish to say, that the contract was repeated in 1849, and not in 1848. In my answer to the 21st cross interrogatory, I wish to state, that the conversation was in January, 1850, and not in October, 1849. In my answer to the 26th cross interrogatory, instead of 1848, it should be stated, as in July or August, 1849. In my answer to the 29th cross interrogatory, I wish to say, that the stoves were received in August or September, 1849, and not in July, 1848. And in my answer to 1st direct interrogatory resumed, I wish to state, that said conversation occurred in 1849, and not in 1848.

2d addit. int. What reason have you for saying, that your former answers, referred to in your preceding answer, were incorrect, and that the statements made in your last preceding answer are correct and true?

Ans. At the time of first giving my deposition, I had not seen the books and papers for some time; but, since then, I have refreshed my recollection of the dates by an examination of the same, and am, therefore, confident that my present statements are correct.

A. J. BLANCHARD.

And now, on this twenty-fifth day of January, A. D. 1853, the said Abner J. Blanchard, by the consent of said parties, personally appeared before me, and in answer to the two preceding additional interrogatories, filed by J. A. Loring, Esq., Solicitor for said complainants, did give the foregoing answers, which were carefully written down by me in the presence of said witness, and thereafter subscribed by him, and by agreement of said parties, the said additional interrogatories and answers are to be taken as a part of the foregoing deposition.

ELIAS MERWIN,
U. S. Commissioner.

Aug. 13, 1853. Filed, and opened by consent.

Attest,

H. W. FULLER,
Clerk.

CIRCUIT COURT OF THE UNITED STATES
for the District of Massachusetts.

JAMES HATSHORN *et al.*
vs.
WILLIAM COGGESHALL *et als.*

UNITED STATES OF AMERICA,
District of Massachusetts, ss.

In Equity.

On this twenty-first day of April, A. D. one thousand eight hundred and fifty-three, before me, Elias Merwin, a Commissioner duly appointed by the Circuit Court of the United States for the District of Massachusetts, personally appeared at my office in the city of Boston, Samuel Brown, Zibah LeBaron, and Wilson Shaw, witnesses on the part of the complainants in a certain suit in Equity, now pending in the Circuit Court of the United States for the District of Massachusetts, wherein James Hartshorn *et al.* are complainants, and T. J. Coggeshall *et als.* are respondents.

And the said Samuel Brown, having been by me first duly cautioned and sworn to testify the whole truth, did depose and say, in answer to the following interrogatories propounded by J. A. Loring, Esq., solicitor for the complainants, as follows, viz:—

1st int. What is your age, residence, and occupation?

1st ans. My age is most forty-three. I reside in Taunton, Mass. I am a moulder by trade.

2d int. Were you or not employed in the year 1849, at a furnace in Fall River, under the charge of Cook Borden & Co.? If yea, when did your employment commence, and how long continue?

2d ans. I was employed in a furnace in Fall River, in 1849. I was spoken to first to go to Fall River, by Thomas J. Coggeshall. I made my agreement with the foreman of the shop, John B. LeBaron. I don't know who the company were. I commenced about the first of September, and continued till some time in January, 1850. I can't tell the precise day.

3d int. Who employed you, and by whom were you paid; in what capacity did you work?

3d ans. I worked at the moulding; I was employed as above; a man whose name they said was Bracket paid me.

4th int. Who appeared to be the proprietor of that foundry while you were there?

4th ans. William Coggeshall, Cook Borden, and Thomas J. Coggeshall were around there as though they were proprietors.

5th int. State what was said by said T. J. Coggshall when he employed you?

[Respondents object to this interrogatory.]

5th. ans. He told me that they were going to start up a furnace

in Fall River, and he wished me to go down there, and go to work making stoves. I don't recollect of his saying anything more. I saw T. J. Coggeshall again; he told me that if I would go down to Fall River and see John, who was the foreman of the furnace, I could possibly make a bargain with him. There was nothing more at that time.

6th int. Did you or not have an interview with John LeBaron thereafter, in pursuance of T. J. Coggeshall's direction? if yea, what was then said by him?

[Respondents object to this interrogatory.]

6th ans. I did. He and I made a bargain together, what I should have for moulding stoves. He said they were going to make a large number of stoves that fall, and should have a good and long job. That is about all.

7th int. For whom were stoves being made at that furnace when you arrived there? How were they marked?

7th ans. For Hartshorn & Ames, Boston. They were marked "Granite State Stoves, two, three, and four, made by Hartshorn & Ames, Nashua, N. H."—the numbers were in figures. Over the front piece, or door, it says, either "Air-Tight Stove, 1849," or "Air-Tight, 1849," I don't now remember which.

8th int. What was the quality of the iron patterns of said stoves, as respects their fitness for moulding or otherwise?

8th ans. The parts that I moulded, moulded very well.

9th int. How many sets of iron patterns of said stove were there when you first began to work?

9th ans. There were three sizes, and a set of patterns for each size.

10th int. Did you or not see at that furnace wooden patterns of said stove, corresponding to the iron patterns before inquired of?

10th ans. I did.

11th int. Was any alteration made in the principle of or design of that stove while you were there, from that of the wooden patterns, or the iron ones from which you cast?

11th ans. The principle and design remained the same, there was no alteration.

12th int. Were the stoves which you cast prior to January, 1850, the same in principle and design as the wooden patterns, or diferent?

12th ans. They were the same, except an alteration in the number 2 fire bottom. The ash pit was made deeper.

13th int. Where did said wooden and iron patterns come from to said Fall River; whose name was on them?

[Respondents object to this interrogatory.]

13th ans. I do not positively know where they came from, [the forman said they came from Norton Furnace, John B. Le Baron.] [The respondents object to so much of the answer as is in brackets.] On the patterns the name was the same as on the stoves, as already stated.

14th int. To whom were the patterns of the Granite State Stove generally known at Fall River Foundry to belong?

[Respondents object to this interrogatory.]

14th ans. They were known to belong to Hartshorn & Ames.

15th int. Where were the stoves made, as above sent or sold—were any sold in Boston?

15th ans. I see them put into the cars, and cards on them directed to Hartshorn & Ames, Boston.

16th int. Were any new iron patterns, or parts of patterns, taken from these wooden patterns prior to January, 1850?

16th ans. There were a few to make up for the deficiency of imperfect patterns and broken patterns. I took off a few covers, I can't say positively that I took off any more. It runs in my mind that more were taken off by others, but I don't remember distinctly.

17th int. State fully when you worked at the Fall River Furnace?

17th ans. I went there about the first of September, 1849, and remained till some time in January, 1850. I returned again about the first of March, 1850, and continued till the month of July, 1850.

18th int. State whether or not on your return to Fall River, in March, you found at the Furnace the same iron patterns of that stove that you had cast from in, or prior to, January?

18th ans. I found the same patterns there, both wooden and iron.

19th int. Was there or not any difference between the patterns of the Granite State Stove which you found there after March, 1850, and those which you found there prior to January, 1850?

19th ans. There was some alteration in the lettering, the principle and design were the same.

20th int. For whom were the Granite State Stoves being made at that Furnace, when you went there in March, 1850?

20th ans. Hartshorn & Ames ordered stoves that spring.

21st int. Do you or not know that Cook Borden & Co. were unable to make a contract with Hartshorn & Ames to continue the manufacture of those stoves after March?

21st ans. I do not know positively.

22d int. Were the Granite State Stoves cast by you in March and after, the same in principle and design as those which you cast in January and prior, or different?

22d ans. The principle and design of the stove were the same, and never were altered while I was there; the principal alteration was in the lettering, as I said before.

23d int. Was it not generally understood at the Fall River Furnace, in March, 1850, that Hartshorn & Ames were about to discontinue their contract with Cook Borden & Co.?

[Respondents object to this interrogatory as incompetent.]

23d ans. It was generally understood that Cook Borden, William and T. J. Coggeshall, all three of whom were about there considerable of the time, and seemed to have an interest in the concern, could not effect a bargain with Hartshorn & Ames to make their stoves.

Whether T. J. Coggeshall was a partner or an agent, I don't know. I refer to the Granite State Stoves.

24th int. How and when did you get the impression that Hartshorn & Ames, and the Coggeshalls and Borden could not make a bargain about the Granite State Stove?

24th ans. I understood it by the foreman, John LeBaron, early in the spring of 1850.

26th int. Were or not any new iron patterns taken from the wooden ones after March, 1850?

25th ans. There were, I think, an entirely new set, but am not positive that there was an entirely new set.

26th int. By whom were you directed to take such iron patterns from the wooden ones?

26th ans. By the foreman, Mr. LeBaron.

27th int. Did others than you mould iron patterns from the wooden ones in March, 1850?

27th ans. They did.

28th int. Were the new iron patterns the same in principle and design as those used at that Furnace when you first went there, or different?

28th ans. The principle and design were the same—the alteration was in the lettering. The alteration was, that the name of "Hartshorn & Ames, Nashua, N. H.," was erased, and the name of "Fall River Foundry Co., Fall River, Mass.," was substituted therefor—that is, there was a new plate made, and the new plate had the name of "Fall River Foundry Co., Fall River, Mass."

29th int. What was done with these new patterns?

29th ans. We moulded from them, and made quite a number of stoves from them. A good many of these patterns have never been cleaned up, so far as I know. When I left there, but a few of them had been cleaned up.

30th int. Were the new set of iron patterns used instead of the old set while you were at Fall River?

30th ans. The old set, with some of the new set, was used—what was useful of the old set. Some new pieces were used—the hearth plate—the others I don't recollect.

31st int. When you returned in March, were not all the old set of those patterns complete for the casting of those stoves?

31st ans. Yes, sir; they fixed up the old patterns in vacation time, and made them complete—they made one new piece, it was No. 2 fire bottom.

32d int. What of the new set was used which were cast after you got back in March?

32d ans. The lettering piece was cast after I went back, and some other parts of the stove. The lettering piece was used, but I don't recollect of any other piece being used.

33d int. Did you, during the spring of 1850, see Mr. Ames, of

Nashua, in that foundry; if yea, about what date, and what time of day?

33d ans. He came there early, very early one morning, early in the spring, in the month of March, I should think, in 1850.

34th inst. State what, if anything, was done with the new set of patterns on that day. State what transpired at the furnace.

34th ans. In the first place, I went very early to work in the morning, and a horse and carriage drove up. I did not see the person get out of the carriage. I see Mr. LeBaron pick up a few pieces of iron patterns which had been taken off—that is, the new set, and carried them out of the moulding-room into another. In a very short time I see Mr. Ames come into the furnace. Neither of the defendants were there.

35th int. What was done by J. LeBaron with those of the new set of patterns which he carried out?

[Respondents object to this interrogatory.]

35th ans. I don't know what he did with them.

36th int. Did you see Mr. Ames in the foundry that day when either of the defendants were there?

36th ans. I did, when William Coggeshall and Cook Borden were there.

37th int. State what was said and done by either of defendants, or Ames, at that time.

37th ans. I heard William Coggeshall ask Mr. Ames if he paid Mr. Lincoln for those patterns. Mr. Ames said he credited it on his book for his right in the patterns. Mr. Ames said he should take his patterns away. Mr. Ames had the wooden patterns put into a box, and a team came and took them away from the furnace. In regard to the iron patterns, Mr. Ames had an officer there, and he begun to pick up the old iron patterns, which were pointed out to him by the foreman, Mr. LeBaron, and carried them through a door and laid them down in a pile.

38th int. While this was going on, what was said to you?

[Respondents object, unless said by them or in their hearing.]

38th ans. Mr. LeBaron came to me and told me to leave the pattern I was then at work on, which was an old one, an oven door, in the sand. I did so. I think LeBaron said he wanted me to do this so that Ames could not get at them, or see them.

39th int. State how this was said to you, and whether or not either of the defendants was near by at the time.

39th ans. Mr. LeBaron came a little ahead of Wm. Coggeshall and Cook Borden, and Ames and officer, and said this to me in a very low tone. I don't know whether the defendants heard it.

40th int. When LeBaron told you to take off the iron patterns in March, state all he said.

[Respondents object to this interrogatory.]

40th ans. He said the Company couldn't make a bargain with Hartshorn & Ames to make their stoves, and they were going to take

off a set of patterns—that Thomas J. Coggeshall told him it was well to have an anchor to the windward.

41st int. What was done with these new iron patterns on the day that Ames came to Fall River?

41st ans. I do not positively know. I saw the patterns up in the attic and some boards flung over them, after Ames went away the first time, and before he returned with the officer.

42d int. Did you ever see a stove of the same design and principle before you saw the Granite State?

42d ans. No, sir.

43d int. After Ames left Fall River, state whether or not this stove was made at that furnace, and for how long a time, and from what patterns.

43d ans. We did make the Granite State Stove, a good many of them—I should think eight or ten stoves a day—with the altered plate of Fall River Foundry Co.; they were made from the old iron patterns, from the largest part of the old iron patterns.

44th int. Was there any difference in the principle and design of the stoves made with the plate marked "Fall River Foundry Co." and that of those made with the plate marked "Hartshorn & Ames, Nashua, N. H.?"

44th ans. There was no difference in the principle or design; the only alteration was the ash-pit, which was made deeper to give a little more draft. This was put in some time between January and March.

Cross Interrogatory.

And in answer to the following cross interrogatory, propounded by W. P. Sheffield, Esq., solicitor for respondents, the said deponent further deposeth and saith as follows, viz:—

1st cross int. Did you hear William Coggeshall, Thomas J. Coggeshall, or Cook Borden say that any of the patterns in iron belonged to Hartshorn & Ames?

[Complainants object to this interrogatory.]

Ans. to 1st cross int. No, sir, I never did.

SAMUEL BROWN.

Deposition of Zibah LeBaron.

April 21, 1853.

And now the said Zibah LeBaron having been by me first duly cautioned and sworn to testify the whole truth, did depose and say in answer to the following interrogatories propounded by J. A. Loring, Esq., solicitor of the complainants, as follows, viz:—

1st int. Do you know the parties to this suit? What is your age, residence, and occupation?

1st ans. I know the parties to this suit; I am twenty-nine years old, reside in Taunton, and am a moulder.

2d int. State at what times you have been employed at the Norton Furnace, so called, and at the Fall River Foundry Furnace, and who were the proprietors of each furnace.

2d ans. I was not employed at the Norton Furnace in, and have not been since January, 1850. I went to work at the Fall River Foundry in the last of August, 1849. At the Fall River Foundry they altered their names so often I could not keep the run; Cook Borden, William and T. J. Coggeshall appeared to be the men, and I was told by the foreman that they were the proprietors, but Thomas J. Coggeshall was then called agent.

3d int. Who employed you at the Fall River Furnace? Who paid you, and how long did you work there?

3d ans. John B. LeBaron employed me. There were two paymasters while I was there; Wm. T. Coggeshall paid off once or twice while I was there; he is said to be a son of William Coggeshall; and after him a man of the name of Bracket. I commenced there in August, and worked till January, then commenced in March, 1850, and worked, I think, till the last of October, or first of November.

4th int. Did you, at the Fall River Furnace, see the wooden and iron patterns of a stove called the Granite State Stove? How was it marked?

4th ans. I did see them; A. A. Lincoln's name was on one of the plates which came from Lincoln's furnace. On another plate was, "The Granite State Stove, made by Hartshorn & Ames, Nashua, N. H." Air-Tight was on the front, and numbers two, three and four.

5th int. While you were at that furnace, were the defendants in or about there, and what were they doing?

5th ans. They were all in there occasionally. They didn't have anything to say to the hands: their talk mostly was with the foreman, John B. LeBaron. Some one of them was in there pretty much every day.

6th int. What was the condition of the iron patterns of the Granite State Stove when you went to the furnace in August, 1849?

6th ans. The iron patterns were not quite all taken off when the wooden patterns came down from Norton.

7th int. What deficiencies were there in the iron patterns when they came to Fall River?

7th ans. One back of No. 4 was not taken off. I took it off myself. There were other pieces which they took off to make the set good. The foreman, when he wanted me to take the back off, said, I think, he had a letter from Mr. Ames to take off from the wood to make the set of patterns good. He said they would try to get along till January, when they would make the set good—fit them up so that they would come together a little better than they did.

[The respondents object to any evidence of the statements of the foreman.]

I think they took off a few covers; patterns from the wood for a few covers. I do not remember of any other pieces at that time. I did not make all the pieces to supply the deficiencies. The wooden patterns were well made, but they looked as if they had been moulded from; and the glue was started some, and they were some warped, as a natural consequence.

8th int. How many Granite State Stoves were made at that foundry between August, 1849, and January, 1850, and for whom, and what was done with them?

8th ans. I should think very near a thousand. They were made for Hartshorn & Ames. I see some of them put on board the cars, with Hartshorn & Ames' name on the card, directed to Boston.

9th int. Were or not those iron patterns well adapted for moulding?

9th ans. Part of them was, and part of them wanted a little fixing. They wanted a little filing up, some of them.

10th int. Were they in as good condition as stove patterns will average, when made for casting?

10th ans. No, sir, not to take them through.

11th int. Was any alteration made in the design, or principle, or plan of the patterns, after you went to Fall River?

11th ans. No, sir.

12th int. Between August, 1849, and January, 1850, were there or not any iron patterns taken from the wooden ones? If yea, what patterns, and for what purpose?

12th ans. I did not see any taken off, except what I have already stated.

13th int. Were the wooden patterns which came from Norton used in making the moulds for those new iron patterns which you have said were taken off? Were the wooden ones altered before being used for this purpose, if at all?

13th ans. The wooden patterns were used. One piece was altered—the ash-pit was made deeper, for the purpose of holding more ashes, I concluded; they also put different letters on the hearth-plate. The bottom was not altered till after January. I do not remember whether the other was altered before January or not. They put on the letters "Fall River Foundry" on the wooden patterns before January; but whether they struck off any iron patterns from them, I cannot say.

14th int. To whom were the iron and wooden patterns of this stove generally known at the furnace to belong?

[Respondents object to this interrogatory.]

14th ans. To Hartshorn & Ames.

15th int. Did the Granite State Stoves which were made at Fall River differ, in plan, design, or principle, from the wooden patterns which came from Norton?

15th ans. No, sir.

16th int. Why did you leave the furnace at Fall River in January, 1850?

16th ans. The furnace stopped in January, 1850. It started again the first of March, 1850. In the vacation it had blowed once or twice, so I was told by the foreman.

17th int. When you went to Fall River in August, 1849, had the furnace started? If yea, how long before?

17th ans. It had not started. It had not been in operation by this company.

18th int. When you returned to Fall River in March, 1850, did you find at the furnace the same wooden and iron patterns of the Granite State Stove as you left there in January?

18th ans. Yes, and a few more.

19th int. Were the patterns of wood and iron then found there by you the same, in principle, plan, and design, as those left by you there in January?

19th ans. The design was the same; there was a little alteration. The hearth-pit of the No. 2 was made a very little deeper. I recall no other alteration, except in the difference in the lettering on the hearth-plate already stated.

20th int. What other patterns were there than you had left there in January, 1850?

20th ans. By the others I mean the bottom and hearth-plate.

21st int. Was any alteration made in the plan, design, or principle of that stove, or its patterns, from March, 1850, until you left?

21st ans. No, I don't know or recollect of any. I should have been pretty apt to notice, if there had been.

22d int. What caused the furnace to stop in January, 1850?

22d ans. The foreman of the shop said he hadn't any work for us. It generally stops in the winter.

23d int. When you returned in March, what was the condition of the patterns, iron and wood, compared to that in January, 1850?

23d ans. There wasn't any odds in the moulding part. From the appearance of the patterns, I should think some of them had been filed; but I was a moulder, and that had nothing to do with my work. The foreman said they had a good set of patterns when we came back.

24th int. For whom were they making stoves at Fall River, in March, 1850?

24th ans. They made some with Hartshorn & Ames' name on, and some with the name of the Fall River Foundry Company.

25th int. Do you or not know that Cook Borden & Co. were unable to make a contract with Hartshorn & Ames to continue to manufacture those stoves after March, 1850?

25th ans. No other ways except what I understood from the foreman, John B. LeBaron.

[The respondents object to evidence of any statements of John B. LeBaron.]

Not far from the middle of March he said that he thought it was doubtful whether they made stoves another year there for Hartshorn & Ames, that they could not agree upon the price. I asked a few

questions then. I asked, if they didn't have the stoves made there, if they would carry the patterns off. He said he did'nt know whether they would or not; he couldn't tell about that. That is about all that was said at that time.

26th int. During the month of March, did you or not receive directions to take off a new set of iron patterns from the wooden ones? if yea, from whom?

26th ans. I had directions to take off some iron patterns from the wooden ones from the foreman, John B. LeBaron.

27th int. Did you take off the iron patterns, and what? and did others also take off patterns of other parts in March, 1850?

27th ans. I took off some backs and hearth bottoms; others took off enough to fill up the set, with those they had already taken off, separate from those that came from Lincoln.

28th int. Were the wooden patterns which came from Norton used to make these new iron patterns? if yea, were they altered in plan, principle and design; or were they the same as when they came there?

28th ans. The wooden patterns from Norton were used, and they were the same in principle and design as when they came, except the alterations already stated.

29th int. For what purpose were these new sets of iron patterns moulded?

29th ans. The foreman said he didn't know but what Mr. Ames would come and take away the patterns, and old Tom Coggeshall said that he thought it was best to have an anchor to the windward. These patterns were carried up into the attic and covered up with boards.

[The respondents object to any evidence of the statements of the foreman.]

30th int. Did you see these patterns carried up stairs? if yea, state by whom they were carried, when, and under what circumstances.

30th ans. I see some carried up. I saw the foreman of the shop carry an armful up the first flight of stairs. I did not follow him beyond that to see where he went, but afterwards, on the same day, I saw them in the attic. A carriage drove up, and Wm. Thomas Coggeshall came into the shop, and went into the other part. A few minutes after he came in I went into the other part; it was then I saw the foreman carry the patterns up stairs. The foreman in carrying them up acted as if he was in a hurry, rather more than usual, and I should think he was on a job by the way he manœuvred around there. I do not know as I recollect anything more.

31st int. Did you hear the foreman give any direction or say anything as to those patterns, or otherwise, that morning? if yea, state what.

[Respondents object to this interrogatory.]

31st ans. I don't recollect as I did.

32d int. Did you see either of these defendants in the Foundry on the day that these patterns were carried up stairs? if yea, what time of day, what did they or either of them say or do?

32d ans. I did. I saw Cook Borden and William Coggeshall. I saw them in there both forenoon and afternoon. I didn't hear them say a great deal. They walked around with the foreman and talked with him some. I don't know as I saw them do much of anything else.

33d int. Until that day, where had those patterns, which were carried up stairs, been kept? were they the ones made after January, or before?

33d ans. They were kept, some of them, in the warehouse, and some in another apartment on the same floor with the furnace. They were made after March. Some of these patterns were taken off the day before Ames came after his wooden patterns.

34th int. Did you or not see Mr. Ames at the foundry on the day that these patterns were carried up stairs? if yea, what time of the day, and what did he do?

34th ans. I saw him there, I should think, about eight o'clock, A. M. He was there then some little time. I saw him again somewhere in the neighborhood of two o'clock; he remained there an hour, I should think, perhaps two. The first time he came in and inquired for the foreman. Mr. Brown, I think, told him he was in the other part; he passed through to where the foreman was. I saw him up stairs again; he appeared to be looking over some wooden patterns—they boxed them up, and a team came and carried them off. That is the last that I saw of him till about two P. M. At two P. M. I saw him in the shop, and two men, I think, with him; some one said one was a lawyer, and the other a constable. They all hands came into the shop—Wm. Coggeshall, Cook Borden, Mr. Ames, and the lawyer and constable. I see Mr. Ames' constable pick up a few iron patterns that came from Lincoln's; they carried few just through the door and laid them down in a heap, some fifteen or twenty of them; that is about all they did; they went off. They had some talk together, but I don't recollect what, now, if I ever knew. Those patterns that were carried up stairs I saw up in the attic before I saw Mr. Ames.

35th int. Did Ames or his constable take any patterns from the flasks?

35th ans. No, sir; not to my recollection.

36th int. Was any direction given in your hearing about those patterns which were in the flasks? if yea, what, and by whom?

36th ans. I had orders from the foreman to leave the pattern of my last mould right in the sand, and not take it out, if it was a pattern that came from Lincoln's, and not to take the mould apart—to ram the sand in and leave it there.

[Respondents object to any statements or directions of the foreman.]

Ames was there about the shop at that time. The defendants did not hear what the foreman said to me.

37th int. Were you in the habit of leaving your iron patterns in the mould?

37th ans. No, sir.

38th int. After March, and until you left that furnace, what stoves were made by these defendants there, from what moulds, and what was done with the stoves?

38th ans. They made some with Hartshorn & Ames' name on, and some with Fall River Foundry. They made, after March, principally the Granite State Stoves from the same patterns as already stated, that came from Lincoln's, with the exceptions already stated. The stoves were sent off by railroad and otherwise. They made more after March, which had their own mark on, than Hartshorn & Ames. I can't tell where the stoves were sent. The foreman said, that some went to Boston, and some to New Bedford.

39th int. Did you ever see stoves of this pattern, plan, and principle, before you saw this Granite State Stove?

39th ans. No, sir.

Cross Interrogatory.

And in answer to the following cross interrogatory propounded by William P. Sheffield, Esq., solicitor of the respondents, the said deponent further deposeth and saith as follows, viz:—

1st cross int. Did you ever hear Cook Borden, William Coggeshall, or T. J. Coggeshall, say, that any of the patterns in iron belonged to Hartshorn & Ames?

Ans. to 1st cross int. I never did.

ZIBA LEBARON.

Deposition of Wilson Shaw.

April 21, 1853.

And now the said Wilson Shaw, having been by me first duly cautioned and sworn to testify the whole truth, did depose and say, in answer to the following interrogatories propounded by John A. Loring, Esq., solicitor of the plaintiffs, as follows, namely:—

1st int. What is your age, residence, and occupation?

1st Ans. I am thirty-nine years of age. I reside in Woodstock, Vt., and am a moulder.

2d int. Were you ever employed at a foundry in Norton, belonging to A. A. Lincoln, and at one in Fall River, owned by Cook Borden & Co.? If yea, state the times, since January, 1849, that you have worked in each.

2d ans. In the summer of 1849 I worked at Norton Furnace. I went in May, and left some time in June. Returned in August, worked awhile, could not get my pay, and left. I did not remain this time more than a month or six weeks. I went to Fall River the

next March, and worked, I guess, about five weeks. Annes Lincoln was the proprietor at Norton; at Fall River, William and T. J. Coggeshall and Cook Borden were about there, and seemed to be interested in it.

3d int. While at Norton, in May, did you work on the Granite State Stove? Did you see the patterns of it there then?

3d ans. I saw the patterns there, but did not work on it. I saw the wooden patterns, and they were taking off iron patterns from them, and fitting them up.

4th int. Did they take off and fit up any iron patterns from the wooden ones while you were there in May?

4th ans. I should think they did. I did not examine the patterns.

5th int. When you went to Fall River, did you there find the Granite State Stove patterns, both iron and wood, at the foundry of Cook Borden & Co.?

5th ans. Yes, sir.

6th int. When you left the Fall River Foundry, what was being done with these patterns which came from Norton?

6th ans. The wooden patterns were packed up and carried off by Mr. Ames before I left. The iron ones they were using when I left. The wooden patterns were the same I saw at Norton. I don't know as I can swear that the iron patterns were the same or not; they had the same mark on, and looked like the same, and I have no doubt they were the same. When I left, they were casting stoves from the old patterns, with a few pieces which they had made to repair up.

7th int. Whose patterns were those called at the Fall River Furnace?

[Respondents object to this interrogatory.]

7th ans. They are called Hartshorn & Ames'. I never heard defendants say anything about it.

8th int. Did you ever see patterns carried up stairs? If yea, where, and under what circumstances, and by whom? State all that happened on that day.

[Respondents object to this interrogatory, unless done by defendants.]

8th ans. I did not see any carried up stairs. Early one morning, in the month of March, 1850, some one drove up, and got out and came into the shop. Some one said it was William Coggeshall's son. He inquired for John LeBaron. I think John was then out of the room. LeBaron had been in, and had taken up a wooden pattern, and went out of the back door with it. It was towards the office up stairs. I heard LeBaron say they must have a set of patterns taken off; that he didn't suppose they would be able to make a contract, and they wanted a set of patterns before they took away the wood. I heard William Coggeshall ask LeBaron, the day that Ames was there, if the patterns could remain in the sand without doing them any hurt. He said, let them be in the sand; and if they are a mind to take them out, let them take them out, that they would have to

pay damage, or something like that. I saw Mr. Ames at the furnace between eight and ten in the morning. He ordered the wooden patterns to be picked up and put into a box. They were done so, and carried off. These were the same patterns that I saw at Norton. In the afternoon I saw him there again with William Coggeshall and Cook Borden. They came down, and Ames came to take the iron patterns. LeBaron pointed out some of them, and finally Mr. Ames said he would leave them. They refused, and forbid him taking either the wooden or iron patterns; and he said that they claimed so many of them, he wouldn't take any of them then. I never saw a stove of this pattern or design before.

WILSON SHAW.

UNITED STATES OF AMERICA,
District of Massachusetts, ss.

I, Elias Merwin, a commissioner duly appointed by the Circuit Court of the United States for the District of Massachusetts, under and by virtue of the "Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed February 20, 1812, do hereby certify that the reason for taking the foregoing depositions is, that the testimony of the witnesses aforesaid is necessary in the cause in the caption of said deposition named; that the said parties agreed upon the time and place for taking said depositions; that on the twenty-first day of April, A. D. one thousand eight hundred and fifty-three, I was attended by John A. Loring, Esq., solicitor for the complainants, and William P. Sheffield, Esq., solicitor for the respondents, and by the said witnesses; and each of the witnesses was by me carefully examined and cautioned, and sworn to testify the truth, and the testimony by them given was by me reduced to writing, and thereafter subscribed by the said witnesses in my presence. And, that I am not of counsel or attorney to either of the parties, nor in any way interested in the event of the cause named in the said caption.

ELIAS MERWIN,
U. S. Commissioner for the District of Massachusetts.

August 13, 1853. Opened by consent of parties.
Attest: H. W. FULLER,
Clerk.

CIRCUIT COURT OF THE UNITED STATES
for the District of Massachusetts.

JAMES HARTSHORN *et al.*
vs.
WILLIAM COGGESHALL *et als.*

UNITED STATES OF AMERICA.

CIRCUIT COURT OF THE UNITED STATES,
within and for the Massachusetts District.

Massachusetts District, ss.

To Thomas Durfee, of Providence, R. I., Esq.

Know ye, That reposing confidence in your wisdom, prudence, and fidelity, we have appointed, and by these presents do hereby authorize and empower you to take the depositions of any witnesses to be examined on behalf of the defendants, and to be used in a certain cause now pending in said Court, wherein James Hartshorn *et al.* are Complainants, in Equity, *vs.* William Coggeshall *et als.*, Respondents.

And to this end, at certain days to be by you appointed for that purpose, to cause said witnesses, as aforesaid, to be brought before you, and each witness, while present before you, to examine carefully on oath touching the premises. And when you shall have taken the examination as aforesaid, to reduce or cause the same to be reduced to writing, and to be subscribed by each of said witnesses in your presence. And the same, so taken and subscribed, to return, together with this commission and your doings herein enclosed, sealed and directed to the Circuit Court aforesaid, holden at Boston, as soon as the same shall have been executed.

In testimony whereof, we have caused the seal of the said Circuit Court to be hereunto affixed.

Witness the Honorable Roger B. Taney, at Boston, this ninth day of February, in the year of our Lord one thousand eight hundred and fifty-three.

H. W. FULLER,
Clerk.

N. B.—You shall, by consent of the parties in writing, filed in this cause, permit either party to attend at the taking of the depositions, either himself, or by any attorney or agent, and to examine the witnesses orally, first giving seasonable notice to the opposite party.

State of Rhode Island, &c.

PROVIDENCE, May 10, A. D. 1853.

Then personally appeared the within named Thomas Durfee, and made oath that he would faithfully and impartially perform his duties under the within commission, according to the requirements therein contained.

Before me, THOMAS C. GREENE,
Justice of the Peace.

Providence, &c.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS.

To the Sheriff, his Deputy, or to either of the Town-Sergeants or Constables in the County of Providence, greeting:—

Request having been made to me by William Coggeshall and others to take the depositions of Amos C. Barstow and William H. Arnold, to be used in the trial of a Bill in Equity, now pending in the Circuit Court within and for the Massachusetts District, next to be holden in Boston, within and for the said District, on the 10th day of May, wherein James Hartshorn *et al.* are complainants, and William Coggeshall *et als.* are respondents; and whereas my office, No. 12 South Main Street, Providence, is by me appointed the place, and the eleventh day of May, at eleven o'clock A. M., the time of taking the same: You are, therefore, hereby required to notify the said Amos C. Barstow and William H. Arnold of the place and time aforesaid, that they are required then and there to attend and give testimony of what they know relative to the said Bill in Equity.

Hereof fail not, and true return make of this writ.

Given under my hand and seal this tenth day of May, A. D. eighteen hundred and fifty-three.

THOMAS DURFEE,
Commissioner.

Providence, &c.

May 10th, A. D. 1533.

I have notified the within named Amos C. Barstow and William H. Arnold, by reading the within to them, in their presence and hearing as required, and have paid to each $1 25, and travel, for their attending.

JAMES SHELDON,
Constable.

Two services and travel,	$1 00
Fees paid witnesses,	2 70
	$3 70

To the Honorable Circuit Court of the United States for the District of Massachusetts:

I, Thomas Durfee, the Commissioner named in the within Commission, do respectfully report, That, after having been duly engaged to the faithful and impartial discharge of my duties under the same, I met the solicitors of the parties on certain days by me appointed, and took the depositions of Amos C. Barstow, Nathaniel Coggeshall, Thomas B. Dean, Aaron B. Mott, and John B. LeBaron, herewith returned, on the part of the respondents.

The parties were both present in person, or by attorney, at the taking of all the said depositions.

THOMAS DURFEE,
Special Commissioner.

Commissioner's Fees.

Taking depositions, $15 00

Deposition of Amos C. Barstow.

I, Amos C. Barstow, of the City and County of Providence, in the State of Rhode Island, being of lawful age, on oath depose and say:—

[Examined by Mr. Sheffield, counsel for the respondent.]

1st int. State your age, residence, and occupation.

1st ans. I am forty years of age, reside in Providence, and am an iron-founder.

2d int. Are you acquainted with Hartshorn & Ames, of Nashua, N. H., and with the Fall River Foundry Co., a copartnership composed of Cook Borden and William Coggeshall, doing business at Fall River?

2d ans. I am acquainted with Hartshorn & Ames. I don't know that I can be said to have a personal acquaintance with the gentlemen of the other firm.

3d int. Are you acquainted with the "Granite State Stove"? and if so, state how and under what circumstances you became acquainted with it. Please state fully all the facts and circumstances connected with the subject of this inquiry, within your knowledge. Please annex a copy of any papers which may be in your possession, or within your control.

3d ans. I am acquainted with the stove. My mind is not posted with regard to matters of dates. I would not like to speak with too much confidence. The patterns were made and stoves sold by Hartshorn & Ames, in A. D. 1849. I considered it an infringement of our patent rights, and the Bay States', too, and gave them notice. Perhaps I ought to remark, there are two classes of patents granted at the Patent Office—one upon new principles, or new application of principles—the other upon new designs; meaning by design, general form and configurations. We considered this stove an infringement of our patent, under the second class—that which related to design.

[Mr. Loring objects to the answer, so far as it contains the witness's opinion.] They did not admit our patent right, and we commenced a suit, in the Circuit Court for the Massachusetts District. We did not seek damages in this suit so much as the establishment of our right under the patent. I ought to add here that I have not consulted any papers. I speak from memory when I say the suit was settled by compromise. Hartshorn & Ames submitted to judgment, and the question of damages was left to referees. The referees were the attorneys for the parties, Messrs. Giles and Sewell. There was a paper executed, although I cannot state the contents with any great positiveness. I will annex a copy.

[Mr. Loring objects to having the copy annexed.]

4th int. From your knowledge of the getting up and manufacture of stoves, are you able to state whether or not it is practicable to fit up a set of patterns from a stove, from which to manufacture stoves?

[Mr. Loring objects to the question.]

4th ans. Such things are done by a great many foundries—such things as taking off patterns from stoves; I have never done it since I have been in the business. I have known it to be done. You cannot obtain so good patterns in that way, though they can be obtained.

5th int. Do you know whether other stoves have been in the market, which have been called and known by the name of the Granite State Stove, than the one manufactured by Hartshorn & Ames, and by the Fall River Foundry Co.?

5th ans. I don't remember any at this moment.

6th int. Do you know whether Hartshorn & Ames have altered the design, configurations, or principle of the Granite State Stove, since they commenced its manufacture? and if so, when, under what circumstances, and in what particulars have such alterations been made?

6th ans. They did alter the configurations immediately after the settlement. I can't particularly describe the alterations. The alterations were not very considerable, I think, but I had rather not answer upon that point.

7th int. Were these alterations made to conform to the agreement about which you have already testified?

7th ans. It was so understood by us.

Cross examined by Mr. Loring, Counsel for the Complainants.

1st cross int. Who claims to have invented the Bay State Stove, and when?

[Mr. Sheffield objects to question as incompetent.]

Ans. to 1st cross int. Mr. Peck, now deceased, of Springfield, Massachusetts. A. C. Barstow & Co. were his assignees. We paid him over two thousand dollars. I think it was invented in A. D. 1848.

2d cross int. Did the plan and construction of the Granite State Stove agree in all respects with the Bay State?

[Mr. Sheffield objects to the question.]

Ans. to 2d cross int. I can't answer that question; a stranger would not notice any difference in the two. There were slight differences—in the form and configuration, I mean.

3d cross int. Did Hartshorn & Ames sue you; if yea, when?

[Mr. Sheffield objects to the question.]

Ans. to 3d cross int. They did, shortly after we sued them.

4th cross int. When you sued Hartshorn & Ames, were you the proprietors of the patterns of the Bay State Stove?

Ans. to 4th cross int. We were, by assignment.

5th cross int. Has the patent of the Bay State Stove ever been tested and established by a trial and decision?

[Mr. Sheffield objects.]

Ans. to 5th cross int. There has been no other case than the one we brought against them.

6th. cross int. Was any wilful infringement of your patent claimed by you to have been made by Hartshorn & Ames? Did they know that they were infringing it?

Ans. to 6th cross int. I have no reason to suppose that when they made their patterns, they thought they were infringing any rights of ours. We gave them notice, however, before bringing the suit. We gave it immediately upon learning that they were infringing our patent, and brought the suit a few weeks after.

7th cross int. What were the alterations you say were made in the stove by Hartshorn & Ames after the settlement?

Ans. to 7th cross int. I can't describe them. They were in the configuration.

8th cross int. Was the principle of the Granite State Stove the same as the Bay?

Ans. to 8th cross int. It was about the same. It varied a little in its internal construction. The difference consisted in the form and arrangement of the flues.

9th cross int. Which is most essential to the success of a stove, the principle or design?

Ans. to 9th cross int. It is like asking in regard to a piece of calico—which is the most essential, the quality of the fabric, or the beauty of the figure? It depends on the taste of the purchaser.

10th cross int. How many Bay State Stoves did you make in the year ending October, 1850?

[Objected to by Mr. Sheffield.]

Ans. to 10th cross int. We made, probably, about 6000 that year. They were worth, without furniture, about $75,000.

11th cross int. For how much did you settle with Hartshorn & Ames in that suit?

Ans. to 11th cross int. The award of the referees was, I believe, fifty dollars.

12th cross int. Did Hartshorn & Ames change the principles of the stove after the settlement?

Ans. to 12th cross int. I can't tell. All I know about the principle is what I heard others say.

13th cross int. Were they requested to change the principle of this stove by you?

[Objected to by Mr. Sheffield.]

Ans. to 13th cross int. No, sir. We had no claims upon the patent of the principle. It was the design, shape, and configuration for which we claimed a patent.

14th cross int. What is the paper (marked A) herewith produced? Annex it to the deposition.

Ans. to 14th cross int. It is one of the two parts of the agreement of settlement.

15th cross int. Why have you not been accustomed to take off patterns from stoves?

Ans. to 15th cross int. For two reasons. First, we think it dishonorable; and next, we cannot get patterns so good. By dishonorable, I mean it is using the product of another's skill to my advantage.

16th cross int. Could you cast stoves fit for the market from patterns which come from the stove?

Ans. to 16th cross int. That would depend altogether upon circumstances. Some of our stoves could be made into patterns as well as those made for patterns. The average of stoves cannot be used for that purpose.

17th cross int. Did you ever have any interview with T. J. Coggeshall, or William Coggeshall, or Cook Borden, about these stoves? if yea, what was said?

Ans. to 17th cross int. I made a journey to Fall River to see the members of this company after the suit. I feel confident that I notified them after the settlement not to use the patterns, but am not positive. I have some impression on my mind that they gave me assurances that they would discontinue the use of them, but can't affirm. My impression is that I had intimations that they did not discontinue.

[*Re-examined by Mr. Sheffield.*]

1st int. If you knew that the plaintiffs, at the time they made their patterns, had one of your stoves in their workshop to construct their patterns from, would or not your opinion be changed in relation to their intentionally or unintentionally infringing your patent?

[Objected to by Mr. Loring.]

1st ans. I think they did mean to make a stove like ours, and had a motive for it. They had a stove in the shop of our pattern. My meaning is, that they thought they were doing us no wrong, not supposing that Peck had a patent for his pattern. The patent was issued in January, 1849. We supposed it was issued before.

2d int. Was there not on the Bay State Stove a wrong date of the patent?

2d ans. I don't remember. I think the mark was "Patent, 1848." I should think the date was not continued on the stove at the time this suit was brought, but can't remember. The date was changed as soon as it was brought to our notice.

On the nineteenth day of May the deponent appeared, and, as agreed by the parties, annexed the writing marked B, which he swore was a true copy of the agreement referred to in interrogatory 3, and the answer thereto of this deposition.

A. C. BARSTOW.

Subscribed and sworn to, May 19th, 1853, before me,

THOMAS DURFEE, *Comm'r.*

Witness fees on summons.

Exhibit A.

Articles of agreement made between A. C. Barstow and Apollos Richmond, co-partners, of Providence, in the State of Rhode Island, of the one part, and James Hartshorn and Winslow Ames, of Nashua, in the State of New Hampshire, co-partners, under the firm of Hartshorn & Ames, and A. J. Blanchard, of Boston, of the other part, this third day of October, in the year eighteen hundred and fifty.

1. In the suit brought by the parties of the first part against the parties of the second part, now pending in the Circuit Court of the United States for the District of Massachusetts, the defendants shall be defaulted and judgment entered in favor of the plaintiffs for fifty dollars damages, without costs.

2. The said parties of the first part, in consideration of the premises, hereby release, acquit, and discharge the said parties of the second part, and each of them, their agents, servants, and all parties claiming under them, and any of them, from all claims, demands, and causes of action arising out of their or any of them having heretofore violated the letters patent set forth or referred to in the declaration in said suit, by making, vending, offering for sale, or using any stoves; and this settlement shall operate as a perpetual license from said parties of the first part to said Hartshorn & Ames, and all claiming under them, to vend and use any and all stoves heretofore made, according to said patent, if any there be, by said Hartshorn & Ames, but not to make or vend any other of the said stoves except those now on hand, if any there be.

3. And whereas it is alleged by said parties of the first part, that the stove heretofore made by said parties of the second part, called the Granite State Stove, is a violation of the design patented by said

letters patent, the said parties of the second part hereby agree to make no more of said Granite State Stoves with the design used when said suit was brought, but to modify the same so that the same shall not be a violation of the said letters patent.

4. If any question should arise between the parties whether the new design of the Granite State Stove infringes on said patent, then the parties agree to refer the same to George S. Hillard, Esq., whose award thereon shall be final and conclusive between the parties.

5. The suit brought by the said Ames against said Barstow & Richmond, now pending in the Circuit Court of the United States for the District of Rhode Island, shall be dismissed, the parties paying their own costs respectively, and neither recovering costs of the other.

In witness whereof the parties above named have hereunto interchangeably set their hands and seals the day and year first above written.

A. C. BARSTOW, [L. S.]
APOLLOS RICHMOND. [L. S.]

Signed, sealed, and delivered in presence of
GEORGE G. RICHMOND,
Witness of signatures of A. C. Barstow and Apollos Richmond.

Boston, October 15, 1850. Received fifty dollars of the said Ames, Hartshorn & Blanchard, in full satisfaction of the judgment above named.

A. C. BARSTOW & CO.,
By J. GILES, *their Attorney.*

Exhibit B.

Articles of Agreement made between A. C. Barstow and Apollos Richmond, co-partners, of Providence, in the State of Rhode Island, of the one part, and James Hartshorn and Winslow Ames, of Nashua, in the State of New Hampshire, co-partners, under the firm of Hartshorn & Ames, and A. J. Blanchard, of Boston, of the other part, this third day of October, in the year eighteen hundred and fifty.

1. In the suit brought by the parties of the first part against the parties of the second part, now pending in the Circuit Court of the United States for the District of Massachusetts, the defendants shall be defaulted and judgment entered in favor of the plaintiffs for fifty dollars damages, without costs.

2. The said parties of the first part, in consideration of the premises, hereby release, acquit, and discharge the said parties of the second part, and each of them, their agents, servants, and all parties claiming under them, and any of them, from all claims, demands, and causes of action arising out of their, or any of them, having heretofore violated the letters patent set forth or referred to in the declaration in said suit, by making, vending, offering for sale, or using any stoves, and their settlement shall operate as a perpetual license from said parties of the first part to said Hartshorn & Ames, and all claiming under them, to vend and use any and all stoves heretofore made according to said patent, by said Hartshorn & Ames, if any there be, but not to make or vend any other of the said stoves except those now on hand, if any there be.

3. And whereas, it is alleged by said parties of the first part, that the stove heretofore made by said parties of the second part, called the Granite State Stove, is a violation of the design patented by said letters patent, the said parties of the second part hereby agree to make no more of said Granite State Stoves with the design used when said suit was brought, but to modify the same, so that the same shall not be a violation of said letters patent.

4. If any question should arise between the parties whether the new design of the Granite State Stove infringes on said patent, then the parties agree to refer the same to George S. Hillard, Esq., whose award thereon shall be final and conclusive between the parties.

5. The suit brought by the said Ames against said Barstow & Richmond, now pending in the Circuit Court of the United States for the District of Rhode Island, shall be dismissed, the parties paying their own costs respectively, and neither recovering costs of the other.

In witness whereof the parties above named have hereunto interchangeably set their hands and seals, the day and year first above written.

JAMES HARTSHORN, [L. S.]
WINSLOW AMES, [L. S.]
A. J. BLANCHARD, [L. S.]
A. C. BARSTOW, [L. S.]
APOLLOS RICHMOND. [L. S.]

Signed, sealed, and delivered in the presence of

S. E. SEWELL,
Witness to Winslow Ames and A. J. Blanchard.

GEO. G. RICHMOND,
Witness to A. C. Barstow and Apollos Richmond.

Deposition of Nathaniel Coggeshall.

I, Nathaniel Coggeshall, of the Town and County of Bristol, and State of Rhode Island, being of lawful age, on oath depose and say.

[Questioned by Mr. Sheffield, counsel for the respondent.]

1st int. State your age, residence, and occupation.

1st ans. I'm a little over fifty. I reside at Bristol, Rhode Island. I am a merchant. I have been in the foundry business. I've got out of that now.

2d int. Are you acquainted with the parties to this suit, and are you related to any of them? if so, to whom?

2d ans. I am brother to William and Thomas Coggeshall.

3d int. Were you present at the Fall River Foundry in the month of March, A. D. 1850, when Winslow Ames, of the firm of Hartshorn & Ames, was there, in relation to the service of a replevin writ? if so, state who was there, and what took place?

[Objected to by Mr. Loring, as leading.]

3d ans. I was in Fall River, and rode up with my brother to the foundry. Mr. Ames was there, and Mr. Battelle. He said the man was Mr. Ames. I did not know him. I think that is the man (pointing to Mr. Ames). The sheriff was also there, I think. Mr. Ames was talking about some patterns. He had some conversation with me about them. I then asked some questions of Mr. LeBaron. [Objected.] The sheriff came in with Mr. Ames, and began to select out the patterns, which Mr. Ames said belonged to him. They took out several patterns, and I think the sheriff carried some into the other room. There were several taken out which broke the pattern set that belonged to the foundry. They then stopped, and Mr. Ames said, "if it is going to break the set so, it will be of no use to me." I think then Mr. Ames went into another room with Mr. Battelle, and when they came out, I think Mr. Ames said they should leave the patterns. Previous to that, I think, my brother William told Mr. Ames, if they had any patterns there, to go and take them. Mr. Ames and LeBaron then went to work selecting them out. As near as I can recollect, they selected the patterns out, and Mr. Ames and the sheriff took part of those, which he called his, into another room, and the others were left in the foundry.

4th int. Do you know whether or not the plaintiff took the patterns in wood from an upper room in the foundry building, and carried them away from the foundry? State all you know about them. If the patterns in wood were carried away by the sheriff, was it before or subsequent to your conversation with Ames?

4th ans. I don't recollect whether they were taken away or not. I heard Mr. Ames talking about packing them—how he should carry them; but whether he took them or not I can't say. I think he did not take away the iron patterns.

5th int. What do you mean by the phrase "going to break the set," used in answer to interrogatory No. 3?

5th ans. By that I mean, there were not enough of Mr. Ames' to make a full set without using the Foundry's.

Cross examined by Mr. Loring.

1st cross int. Were you or not ever interested in the Fall River Foundry Company; if yea, when, and in what way?

Ans. to 1st cross int. I never was.

2d cross int. How often have you been at the Fall River Foundry since January, 1850?

Ans. to 2d cross int. I have not been there but a few times, not more than once a year.

3d cross int. For what purpose did you go to the foundry, and how long did you stay there?

Ans. to 3d cross int. I won't swear positively to that date. I think it was then. If I had my books I could tell exactly. My brother asked me to ride up with him, and I think he said there were some people from Boston or New Hampshire to replevy some goods. Perhaps I was there two hours, may be three hours; it might have been four hours. I think I went home in the stage at one o'clock in the afternoon. I am not positive.

4th cross int. Was Mr. Ames at the foundry when you reached the foundry?

Ans. to 4th cross int. I am not positive. He might have been there when I arrived; if not, he was there soon after.

5th cross int. Did you pay particular attention to what was said by Ames at that time?

Ans. to 5th cross int. I don't know that I paid particular attention. I did of some things, for some things were addressed to me. I advised my brother, if he had any patterns there to let him have them.

6th cross int. Did Mr. Ames carry away any iron patterns from the iron foundry?

Ans. to 6th cross int. I don't know whether he did or not.

7th cross int. What do you mean by saying that several were taken out?

Ans. to 7th cross int. I mean that some of the patterns which Mr. Ames claimed, whether wood or iron I don't know, were taken from the moulding-room and carried into another room. I inferred from the conversation that they were wooden patterns.

8th cross int. What conversation do you refer to; who took part in it, and what was said? Be particular and state all that was said, who said it, and at what time of day, and who were present.

Ans. to 8th cross int. The conversation was that which took place when they first started. When we first got there they were talking about wooden patterns—about boxing them up. Mr. Ames took part in it, and my brother William and I had something to say.

This was in the forenoon. Mr. Ames, Mr. Battelle, Mr. LeBaron, and the sheriff, were present. I think Mr. Battelle was sent for, and was present in selecting the patterns, but was not present at first. The conversation was on the first onset respecting these wooden patterns. Mr. Ames claimed them as his, and said he wanted them to carry away, or something to that effect. My brother said, "If you have got any patterns here, you can go and take them." The wooden patterns were the ones that were up stairs. I first saw Mr. Ames up stairs, where these wooden patterns were.

9th cross int. Was the conversation from which you draw your inference as to the nature of the patterns which Mr. Ames claimed, up or down stairs?

Ans. to 9th cross int. I concluded they (the patterns) were all alike. In our foundry where I worked we used wooden patterns altogether. I concluded that they had some up stairs and some down stairs. The conversation about the patterns was at the first onset up stairs.

10th cross int. When patterns were spoken of at this time, did you not conclude that wooden patterns were intended, from the fact that you used wooden patterns at your foundry?

Ans. to 10th cross int. I did not know what the patterns were. We used wooden patterns. I presumed that they used some wooden patterns. I thought they meant wooden patterns, because those up stairs were wooden patterns—they said they were.

11th cross int. Why did you, from the conversation spoken of, infer that the patterns which were taken out were wooden?

Ans. to 11th cross int. I did not know whether the patterns taken out were wooden or iron. They were talking about wooden patterns up stairs, and I supposed that these were the same ones.

12th cross int. Who was present when your brother said to Ames, "If you have any patterns here you may go and take them?"

Ans. to 12th cross int. I think Mr. LeBaron was present. I think he asked him to go and pick them out with him. I don't know whether the sheriff and Mr. Battelle were there or not at the time. They were there soon after. I think Mr. LeBaron was there, or else he was called in soon after. I don't know which. I don't remember of any one else being there. Still there might have been.

13th cross int. You do not recollect whether the sheriff or Battelle were present when this was said, but you say you remember the conversation; how do you remember the one and not the other?

Ans. to 13th cross int. I was there, side of him. The reason I remember what was said was because I advised if Mr. Ames had any there he had better let him take them.

14th cross int. Will you swear that Coggeshall said this?

Ans. to 14th cross int. That was the meaning of what he said, as near as I can recollect.

15th cross int. Will you swear that you saw Ames at the foundry in the month of March, 1850?

Ans. to 15th cross int. I swear that there was a gentleman there that they said was Mr. Ames. And I think the gentleman there (Mr. Ames, who sat beside Mr. Loring) was the man.

16th cross int. Do you now recognize any person in this room as the one who was at that time called Mr. Ames?

Ans. to 16th cross int. I think that is the man there (pointing to Mr. Ames), but still I may be mistaken.

17th cross int. Did Mr. LeBaron pick out wooden or iron patterns at the *the* time you have mentioned?

Ans. to 17th cross int. I don't know.

18th cross int. Did Mr. LeBaron go and pick out the patterns for Mr. Ames?

Ans. to 18th cross int. Yes, sir.

19th cross int. How do you know that he did?

Ans. to 19th cross int. I saw them picking them out.

20th cross int. Where were the patterns which LeBaron picked out situated?

Ans. to 20th cross int. I think they were in the moulding-room.

21st cross int. Were they iron or wooden patterns?

Ans. to 21st cross int. I don't know whether they were wooden or iron.

22d cross int. How near were you to them when they were picking out the patterns?

Ans. to 22d cross int. Perhaps I was ten feet off.

23d cross int. What were you doing, and who was with you?

Ans. to 23d cross int. I was walking about from one room to the other; sometimes I was talking with Mr. Battelle.

24th cross int. Were you in the same room, or in another?

Ans. to 24th cross int. I was for a few minutes in the room, and then went into another room. I went in with them.

25th cross int. If you went in with LeBaron and Ames and saw them pick out some of these patterns, why can you not tell whether they were wooden or iron?

Ans. to 25th cross int. I was not near enough. The sheriff took one in each hand. I did not pay much attention.

26th cross int. Did or not Mr. Ames undertake to take away patterns from that foundry, and upon being told that if he did, he would have a lawsuit, abandon and leave them where they were?

Ans. to 26th cross int. Not to my knowledge. I don't recollect any such thing as that.

27th cross int. Did not your brother at that time forbid Mr. Ames to take away any of the patterns?

Ans. to 27th cross int. I think he did at first; but afterwards told him he might take them. I think he told him at first that the patterns were all his (Mr. Coggeshall's), and then afterwards, if there were any patterns of his (Mr. Ames') there, to go and take them.

28th cross int. Do you know that Ames took away all that he called his?

Ans. to 28th cross int. No, sir; I don't know that he took away any.

29th cross int. What did you understand Mr. Ames to mean when he said, "if it is going to break the set?"

Ans. to 29th cross int. I understood it that Mr. Ames had not a full set. I don't know whether there was a full set or not.

30th cross int. Did you not know that some of the iron patterns were in the flasks when Ames came there?

Ans. to 30th cross int. I don't know.

31st cross int. Did you not know that Ames claimed some of the iron patterns?

Ans. to 31st cross int. I don't know what he claimed.

32d cross int. Have you talked with either of the respondents about this case, or the testimony you were to give; if yea, with whom, and when?

Ans. to 32d cross int. I was in Fall River last Thursday, and my brother asked me if I recollected about being up to the foundry. I told him "yes," but I recollected very little about it when he first mentioned it. My brother said he wanted me to come up here and give my deposition.

33d cross int. Do you not know from anything that either of the respondents have said, that Ames did not get all the patterns which he claimed, on the day you say he was at the foundry?

Ans. to 33d cross int. I know nothing about it.

A. W. COGGESHALL.

Subscribed and sworn to, May 11th, 1853,
Before me,

THOMAS DURFEE,
Com'r.

Witness fees,

1 day,	$1 25
13 miles,	1 30
	$2 55

Deposition of Thomas B. Dean.

I, Thomas B. Dean, of Berkley, in the county of Bristol, and Commonwealth of Massachusetts, being of lawful age, on oath depose and say.

[Examined by Mr. Sheffield, counsel for the respondents.]

1st int. State your age, residence, and occupation.

1st ans. I'm forty-six years old. Reside in Berkley, and am a carpenter, and have worked in the machine shop considerably lately.

2d int. State whether or not you saw Mr. Ames, of the firm of Hartshorn & Ames, at the Fall River Foundry, in March, 1850.

[Objected to by Mr. Loring as leading.]

2d ans. I saw him at the time he came after the patterns.

3d int. Do you know whether or not, at that time, any patterns in wood or iron were removed by Ames from the foundry? if so, state what you know about it.

[Objected to as leading.]

3d ans. I presume he removed them. I saw him box them up. They were wooden patterns.

4th int. If you heard any conversation between Ames and Cook Borden on that day, state what it was, where it was, and who was present.

3d ans. They were talking about some iron patterns. I concluded they were iron, because Mr. Borden said Mr. Ames had no more right to take the patterns he had made, than to take the stoves. I was at work in the upper room where the patterns were, and I did not hear much conversation Mr. Borden asked him, I believe, if he had not a right to take one of the stoves, and finish it up, and use it for a pattern. Mr. Ames said he had a perfect right. I don't know that there was anything else said. Mr. LeBaron, Mr. Ames, and Mr. William Coggeshall, were present. I believe Mr. Thomas Coggeshall was not there.

Cross examined by Mr. Loring.

1st cross int. Were the wooden patterns usually kept up stairs where you were?

Ans. to 1st cross int. I think they were. They were in the box, and on the benches.

2d cross int. Did you not see the iron or wooden patterns carried up stairs that day?

Ans. to 2d cross int. I don't recollect that they were.

3d cross int. Do you now remember the conversation that you have testified to in your direct examination?

Ans. to 3d cross int. Yes, I think I do.

4th cross int. Have you seen an affidavit made by you in this case; if yea, when?

Ans. to 4th cross int. Yes, since I came here.

5th cross int. Was this conversation recited to you before you gave your affidavit; if yea, by whom?

Ans. to 5th cross int. No; it was not recited to me.

6th cross int. Do you not know that Cook Borden & Co. took off some iron copies of the patterns of the Granite State Stove from the wooden ones which they received from Norton?

Ans. to 6th cross int. I can't say that they did.

7th cross int. Did you make any memorandum of this conversation at any time after it was taken?

Ans. to 7th cross int. No, sir.

8th cross int. What were you doing at the time?

Ans. to 8th cross int. I was helping box up them wooden patterns. I was not more than six or eight feet from them.

THOMAS B. DEAN.

Subscribed and sworn to, May 11, A. D. 1853,
Before me,

THOMAS DURFEE,
Com'r.

Witness fees,

1 day's attendance,	$1 25
22 miles travel,	2 20
	$3 45

Deposition of Aaron B. Nott.

I, Aaron B. Nott, of Fall River, in the County of Bristol, and Commonwealth of Massachusetts, on oath depose and say.

[Examined by Mr. Sheffield, counsel for the respondents.]

1st int. State your age, residence, and occupation, and where, and in what capacity, you are now employed.

1st ans. I'm forty-two years old, and reside in Fall River. My occupation is pattern-finishing, and stove-mounting. I am now employed at the Fall River Foundry, as pattern-finisher and stove-mounter. I went there the first day of August, 1849, and have been there ever since.

2d int. When, and under what circumstances, did you first become acquainted with the Granite State Stove?

2d ans. At Lincoln's furnace, in Norton. I was at work there; went there in April, 1849.

3d int. State whether or not all the patterns for these sizes were at the Norton Furnace in April, 1849, when you went to work there.

3d ans. No, sir, or rather I think not. I did not see but one set.

4th int. How long did you continue to work at the Norton Furnace?

4th ans. I worked there until the first of August, and then started for Fall River, with the patterns in iron, and the flasks and the mould-boards.

5th int. To whom were the patterns in iron, which you carried to Fall River, directed?

5th ans. To Cook Borden.

6th int. How many of the Granite State Stoves were made at Norton, and what was their quality?

6th ans. Probably between thirty and forty, mostly No. 3. The quality was not so good as it ought to have been. The patterns were not got up in first-rate shape, so as to get the stoves in good shape.

7th int. What was the quality of the patterns in iron which you carried to Fall River?

7th ans. They were rather poor. The iron was hard, so that we could not file them, and, in some instances, they were so that we could not get them to the stone to grind them.

8th int. Were the patterns altered or improved after they were carried to Fall River? If you say they were, state in what particulars.

8th ans. They were not immediately altered. There were some alterations made after they had been there some little time. They were improved. I don't say that the design or principle was altered; but some of the pieces were changed, so as to make a better fit. I don't think one-third of the pieces were altered at that time—not more than two or three pieces. Afterwards, there were considerable alterations in No. 2 stove. The fire-plate, oven-back, and flue-back, were altered in No. 3. The catches of the door were improved, so as to hold better. There were some pieces put on the oven-bottom, to prevent it from springing up in the middle. It was liable to do so, and did it even after it was altered, though not so bad. The pattern was altogether too thick. In some parts of the stove, the joints were open all the way from an eight to a quarter of an inch. There was no great change in the turtle-back. We had the most trouble with the flue-back, that fays on to this turtle-back. I think all the alterations in the turtle was a knob placed on the under side to keep the front part of the oven bottom from sagging.

9th int. Who worked on the patterns at Fall River? and how long was each person employed?

9th ans. I worked on the patterns what little time I could get. LeBaron worked on them, and another machinist, I never knew his name, and Mr. Marshall Warren. I could not tell how long they were employed. I was off and on. I was putting up stoves, and what time I could get I worked on the patterns. I was driven so hard putting up the stoves that I could not get much time. I might have worked ten or fifteen days. I could not tell how long Warren was there. He was there more than a week, and I guess more than a month. He was not at work on the patterns all the time.

10th int. State if at any time you heard Annes A. Lincoln say anything about the title to the iron patterns; if so, state what he said, when it was, and where it was.

[Objected to as leading and otherwise.]

10th ans. Mr. Lincoln said, after I had been at Norton a month or so, I want you to drive as fast as possible and get them patterns off, and get up some stoves, for Mr. Ames is in a hurry for them,

and after supplying Hartshorn & Ames with what they wanted, he said he calculated to sell some in his own name. He said he had the privilege to sell. He said after the patterns were taken off in iron and finished up he should have a set of his own. I considered the iron patterns would be his, was what he meant. I heard him say nothing about it at any other time.

11th int. Were you at the foundry in March, A. D. 1850, when Ames came there with Greene, the sheriff, to replevin the patterns?

11th ans. Yes, sir. I did not hear much of the conversation.

12th int. What was the success in manufacturing the stove at Norton? State particularly what you know about it.

12th ans. If you had seen the pile of refuse castings that came down to Fall River, you would think we had poor success. We had to melt the larger part of them over. I do not think it was possible to get the stove out at Lincoln's store in the situation in which the patterns were then.

Cross examined by Mr. Loring.

1st cross int. Were not the refuse castings sent to Fall River from Norton and melted over to make new stoves and pieces from?

Ans. to 1st cross int. Yes, sir. There might have been a few small pieces that would answer to go into the stove.

2d cross int. How many refuse castings were sent to Fall River from Norton?

Ans. to 2d cross int. I could not tell exactly. I guess there was a ton and a half.

3d cross int. Was not Lincoln troubled for want of funds to carry on his furnace at Norton?

Ans. to 3d cross int. Yes, sir, and help too.

4th cross int. Were not the Granite State Stoves made at the Fall River Foundry the same in principle and design as those made at the Norton Furnace?

Ans. to 4th cross int. Yes, sir. There was no alteration in the principle, or design, that I know of.

5th cross int. Do not all foundries always have some one in their employ to keep the patterns in repair? Is there not needed on most patterns changes and repairs?

Ans. to 5th cross int. It is most generally the case that furnace owners have a man on purpose for that business.

6th cross int. Did not the Fall River Foundry turn out the Granite State Stove in large numbers and in good condition from August, '49, to January, '50?

Ans. to 6th cross int. They turned them out in large numbers, but not in very good condition. They had no stoves sent back to them that I know of, as being improperly cast.

7th cross int. Is it not usual for patterns of a new style of stove to need various changes and fittings?

Ans. to 7th cross int. I don't consider it so, after the pattern is

first taken off and fitted. When they are first taken off you have to look to them pretty sharp, and if you don't get them right the first time, you try again.

AARON B. NOTT.

Subscribed and sworn to, May 12th, A. D. 1853, before me,

THOMAS DURFEE,
Com'r.

Witness fees,
2 days, $2 50
20 miles, 2 00

$4 50

Deposition of John B. LeBaron.

I, John B. LeBaron, of Taunton in the County of Bristol and Commonwealth of Massachusetts, being of lawful age, on oath depose and say:—

1st. int. What is your age, residence and occupation?

1st ans. I'm thirty-five years old. I reside in Taunton. I'm a moulder by trade, but have been foreman of the Fall River Foundry four years:—

2d int. Are you acquainted with the parties to this suit?

2d ans. Yes, sir, I suppose so. I don't know Hartshorn.

3d int. Are you acquainted with a stove known and called by the name of the Granite Stove; if so, when, where, and under what circumstances did you first become acquainted with it?

3d ans. The first that I ever saw the iron patterns, I saw them in the Fall River Foundry, 6th day of August, 1849. I went there to work. Mr. T. J. Coggeshall came after me to go there to start up the furnace.

4th int. Do you know from Winslow Ames, or otherwise, how the patterns in wood came to be carried to Fall River? if so, state what you know about it.

[Objected to by Mr. Loring as leading.]

4th int. I had been at Fall River about ten days, when Mr. Winslow Ames came down there one day, and came to me and said he wanted to see me a few minutes down to the Foundry. I walked down to the Foundry with him. He wanted to know what the matter was that he hadn't received any stoves from there. I told him the greatest reason was, we had not any to send him. We had not made any yet. He asked me if I thought I could improve the castings any—that is, make any better castings than they had been making up at Norton. I told him I thought I could; it would depend on what I had to work with. Then Ames says, these stoves are going right into the market, side of Barstow's Bay States, and he wanted as nice a stove as the Bay State. I told him I thought it would be

a hard case to make as nice a stove as the Bay State from them iron patterns that were there in the furnace. He wanted to know what the matter with the iron patterns was. I told him they were very imperfect patterns, I called them. Ames says, if them patterns are imperfect, you have got the wood patterns; take off till you get a perfect set. I told him at the same time that the No. 4 pattern was not all taken off. That is, there was not a full set of iron patterns taken off. I also told him that the wooden patterns were not there. Well, he said, they were at Norton, and he'd have them sent right down. In a few days they came down, boxed up, directed on the box to Cook Borden & Co.

5th int. What was the condition of the patterns when you first saw them, and how were they adapted for use in making castings?

5th ans. The patterns of iron were of three sizes, No. 2, 3 and 4. That is, there was a part of a set of 4. They were in a bad shape; that is, they were not perfect to begin with. All the patterns were in bad shape, imperfect, as I saw when I first looked at them. Come to cast from them and set up stoves made from the castings, I found the stoves did not go together well; they went together hard, and did not fit well. Then I got a pattern-maker, Marshall Warren.

6th int. Did you see any of the stoves that were cast at Norton; if so, what was their quality, or did you hear Ames say anything about the castings made at Norton? if so, state what you know or have heard from Ames about the castings made there.

6th ans. He told me at the time he was down there to see me, that he had very bad castings from Norton. And they sent down some of the castings from Norton—a few odd pieces, and these were poor castings. We used a few of them, the others we melted over. I never saw any of the whole stoves that were made in Norton.

7th int. Were the patterns altered or improved after they were removed to Fall River? if so, state in what particulars.

7th ans. I got Marshall Warren down there, and set him to glueing these wooden patterns up, and making some alterations in them, such as putting on flanges, and adding on pieces on to the wooden plates, to make the patterns fit better. Warren worked there something like two or three months. Part of the time he was fitting up and filing the iron patterns. After I had got the wooden patterns fitted up, then I commenced taking off iron patterns from them, by moulding them up, and taking the impressions in the sand, and pouring in melted iron, and thus taking castings from them. I knew, in the time of it, what alterations were made, but it is so long ago, that my recollection has become somewhat impaired. The No. 2's we raised the doors, and altered the oven-bottom, and the turtle-back, and the flue-back, and we altered the covers and centres, altered the fire-plates, and fire-bottom, and the oven-back, I believe. Of No. 3, we altered the oven-bottom, covers and centre, hearth-plate, and turtle-back, and flue-back, and the fire-plate, by putting on a piece of wood, so as to widen it, and keep the ashes out of the oven. In

No. 4, we altered the covers and centres, oven-bottom, oven-back, turtle-back, and flue-back. Some of the flanges around the top was altered, so as to fit up the jams and back. We altered so as to get off a set of iron patterns that would fit. I should think, of the wood patterns, that we altered two-thirds of the pieces. Some more, and some less. After we got these wooden patterns all glued up, we commenced first, and took off pieces to complete the No. 4 set. Next we took off No. 2 back, because the old one was cracked, and No. 3 oven-bottom, because it was cracked. They were cracked when they came there, and we continued to take off, trying to get a good set of patterns. That was our object. We went to work and altered the covers pretty soon after we received orders from Hartshorn & Ames. In October, we altered the wooden patterns of the covers, and made a new wooden cover-lifter, and took off, and finished up iron ones from them.

8th int. How many patterns in iron were taken off from the patterns in wood, and when were they so taken off?

8th ans. I couldn't tell when they were all taken off. They were taken off from time to time, from August to the next March, up to the time when Ames came there to take them. We altered the worst places in the stoves first—that is, the patterns that we needed most we took off first, in order to fit up the worst places in the old patterns. We used the new patterns with the best old ones, and so kept taking them off. We made some new wooden ones afterwards to go to the stoves. We made entire new wooden patterns for tops, covers, and centres, throughout. We made the new tops there after Ames carried away his wooden patterns. We made new wooden patterns for coal-grates before Ames carried away his wooden patterns, for a entire set of coal-grates of all sizes. We made new wood patterns for an oven-back for No. 4, and also an oven-bottom, and oven-front, and oven-back for No. 3, after Ames carried his wooden patterns away. Between August and March, we took off, from time to time, an entire new set of iron patterns. I think we got every piece off, of every size. That was our calculation, though I am not sure that we got every piece.

9th int. How long have you been engaged in the business of manufacturing stoves?

9th ans. Seventeen years next November, I believe.

10th int. From your knowledge of the stove business can you now say whether or not the Granite State Stove would have been successful in the market had it not been for the alterations and improvements made in the patterns at the Fall River Foundry?

[Objected to by Mr. Loring.]

10th ans. It is rather a curious question for me to decide. My opinion is that the stove would not give very good satisfaction in the market. I believe it did not satisfy Mr. Ames very well. He found some fault with the fit—before the alteration. The man that put the stoves together complained a good deal about putting them together. Mr. Nott was the man.

11th int. State if you know whether or not it is practicable to clean up a set of patterns for casting from a stove?

11th ans. Yes, sir, it is practicable, and is practised some. You cannot get so good a set, but you can get a set so that you can cast stoves from them. I think I could have got as good a set of patterns as those that came from Norton, from a well cast stove.

12th int. At what cost would a set of patterns be cleaned up from a stove?

12th ans. There is not any particular price, as I know. I should have to guess at it. They sell the stoves at about twenty dollars; the labor on it would cost about forty or fifty dollars, to fit it up in good shape. It would depend somewhat upon how it was done.

13th int. What did you understand Ames to mean, when he told you to take off patterns in iron from the patterns in wood, until you got a perfect set. Did you understand him to give you the liberty to take off patterns, until you got off an entire perfect set? or did you understand him to limit you to taking off such pieces as would supply deficiencies in the Norton pattern?

[Objected to by Mr. Loring, as leading, and otherwise.]

13th ans. I understood by what he said that he was going to send the wooden patterns down there till I got a perfect set. That is the way that he expressed it—to take off patterns from the wood until I got a perfect set. He left it altogether to my judgment, I suppose. I took it so. He said at the time, I recollect, that he thought there was a good set of iron patterns. He said they had had them at Norton long enough to have a set.

14th int. State whether or not any of the patterns in iron that came from Norton were what you would call perfect patterns.

14th ans. There was a difficulty about all of them, either in the fit or the figure. There were some of the iron patterns that might have been filed to make fit, but the iron was so hard that we could not file them.

15th int. Were you at the foundry in Fall River when the sheriff and Ames came there to replevin the patterns? if so, state what was said and done at that time.

15th ans. Yes, sir, I was there on the spot. I was up stairs, in what we call the work and pattern shop. Mr. Ames came up stairs first, and asked me where those Granite State patterns were. I told him the wooden patterns were there in that room, some of them. He told me he had come after them, and about that time Mr. Greene came up stairs and took out a paper and read something. I don't remember the contents—something about the patterns. Then Mr. Ames asked me if I would pick the patterns up. I told him I supposed I could. These were the wooden patterns. I commenced picking them out; brought them together and put them on the floor in a pile, then got some boxes, and helped Mr. Ames pack them into the boxes; ordered Mr. Dean to get some boards and nail over the boxes, and he did so. There was a team came and carried them off.

That was the last I have seen of them. Then Mr. Ames said, "Now where are the iron patterns?" I told him they were in the moulding room; he said he wanted them. I asked him if he was going to take them, and he said he was; I told him he had better wait until Mr. Coggeshall or Cook Borden came, before he took them. I believe I told him that there were some iron patterns there that we had taken off and finished up at the Foundry. He said that he wanted the iron patterns that came from Norton. I told him that part of the iron patterns that came from Norton were in the moulding-room, and a part of them we had laid aside up stairs in the pattern-room. He said he wanted the set of patterns that we were using. I told him we had taken off some and fitted them up. He said if we had got a good set of iron patterns, that was just what he wanted. About that time Mr. William Coggeshall came in, then I gave up the conversation to Mr. Coggeshall and Mr. Ames. They had a great deal of conversation. I could not state it all. Nathaniel Coggeshall was also there. I think Mr. Ames demanded the iron patterns of Mr. Coggeshall; the wooden patterns were picked up at that time, but not carried away. As I said, Ames demanded the iron patterns we were using, and Wm. Coggeshall asked him what right he had to them. He (Mr. Ames) said he considered them his. And Mr. Coggeshall said he considered them his or the Company's. Mr. Ames asked him what right he had to them. Mr. Coggeshall said, a part of them they had taken off there; it was their labor and their iron, and he considered them his, and Mr. Ames had no more right to them than he had to the stoves that were piled up there. Mr. Coggeshall asked Mr. Ames if he would wait, and he would go up and telegraph to his brother, Thomas Coggeshall. Mr. Ames said he would. Mr. Coggeshall came back, and Mr. David Perkins came with him. Mr. Battelle came a short time after Mr. Greene and Ames. Mr. Coggeshall or Mr. Perkins, or both of them, forbid Mr. Ames taking the iron patterns out of the moulding-room. Mr. Ames spoke to Mr. Greene. Said he, pay no regard to what they say—come in and take them. Mr. Ames started, and Mr. Greene followed him into the moulding-room. We all followed into the moulding-room. Mr. Ames went ahead on to one of the moulder's floors, and looked round there and turned about and came up to me and asked me where those iron patterns were. I told him they were all over the furnace. Each man had his own patterns that he was using. The moulders were at work there. Mr. Ames said, it is just as I expected that these patterns were tucked away. I told him there were no patterns tucked away. Every moulder had his own patterns as he was using them. They were all there in the shop. Then Mr. Ames says, will you pick them up for me? Mr. William Coggeshall says, "Pick them up? No, we forbid you taking them." Mr. Cook Borden said to Mr. Ames, "What right have you to these iron patterns that we have taken off and finished up here, or what right have you with those that came from Lincoln's?" Mr.

Ames said, what right have you to the iron patterns that came from Lincoln's (he said this to Mr. Borden), have you paid for them? Yes, said Mr. Borden, we have paid for them. We have paid for something. If we have not paid for them, I don't know what we have paid for. Then Mr. Borden says to Mr. Ames, what right have you to them, have you paid for them? Mr. Ames said, I have given Lincoln credit for them on my books. When, said Mr. Borden. Yesterday, or day before yesterday, I don't recollect which it was. Then they stayed around there something like an hour. Mr. Ames went out and talked with Mr. Battelle, and Mr. Coggeshall with Mr. Perkins. Then Mr. Coggeshall and (they) came together and began to talk, and Mr. Ames says, we have concluded not to take any patterns that you have taken off and finished up here. But we shall take the iron patterns that came from Norton. Now, says Mr. Ames, will you point out to us which the patterns are that came from Norton. Mr. Coggeshall says, if you know which are the patterns and insist on taking them, take them. I am not going to point them out. We forbid your taking them. Afterwards Mr. Coggeshall consented to point them out so as to separate them from the others, and ordered me to go round and point them out to the sheriff. I told Mr. Coggeshall the moulders are using the patterns, and have got some of them rammed up in the flasks. Says Mr. Coggeshall, you had better tell the moulders to stop and let them remain, and let them take them. I ordered the moulders to stop, and they did so, and I commenced pointing the patterns out, and Mr. Greene commenced picking them up, and I found some of them to be in the moulds just as the moulders left them. Mr. Greene picked up two or three handfuls of the patterns, and Mr. Ames said to Mr. Greene, "Stop a few moments. I'll see Mr. Borden, and see if we can't make a contract." Then Mr. Ames stepped out to Mr. Borden and Coggeshall and said, "This is going to make bad work, taking a part of these patterns. I shall not have a set, and you won't have a set." Then they commenced talking, and Mr. Ames said something to them about making stoves for him, and Mr. Borden or Mr. Coggeshall, I don't remember which, said to Mr. Ames, "We are willing to make your stoves for you at a fair price, but we can't make them at $3\frac{1}{2}$ cents a pound," and there the conversation ended. They went off to get some dinner, or somewhere. I don't recollect of their coming there again that day. I don't recollect that he was in the Foundry at all afterwards, and I don't know but he did come there, I'm not certain.

16th int. Were you present at any interview between Cook Borden and Ames in an upper room in the Foundry Building? if so, state what was said by them.

16th ans. Yes; Mr. Borden and Mr. Ames had some conversation up stairs before they went down to take the iron patterns. Dean was present. Mr. Borden told Mr. Ames that he considered that he had just as good a right to go into his Planing Mill and take his planing irons out of his planing machines as he had to take his iron

patterns out of that furnace. Mr. Ames said, "I don't consider it so. I consider them iron patterns mine." Mr. Borden asked him how he considered them his; we have made them here and finished them up. I don't consider them yours any more than them stoves that are piled up there. Then Mr. Borden asked him: Do you deny that we have a right to take one of these Granite State Stoves and finish it up and make patterns of that? Mr. Ames said: No, I don't deny but that you have a perfect right; there is no patent on the stove.

17th int. When Ames was there with the sheriff, do you remember taking a pattern out of the room where the moulders were at work into any room, and, if so, state for what purpose you took such pattern out of that room?

17th ans. When we were picking up these wooden patterns up stairs, Mr. Ames said, "I want you to be sure and get every pattern." I told him, in order to tell when we had got every one, we would lay each size out by itself. We did so, and we found the patterns were not all there. Says Mr. Ames, where are the rest of them? I said some of them are down in a building on the wharf; they were carried there for safety from fire. I said there is one in the moulding-room, and I'll go and get it. I went and got it, and carried it up. I don't know but I carried more than one up. I'm not sure.

18th int. Were there any patterns carried up or concealed in any part of the foundry building at the time Ames and the sheriff were there? Was there any attempt to conceal any of the patterns that came from Norton from Ames or the sheriff?

18th ans. No, sir; no attempt to conceal any patterns whatever on that day. There were no attempts by me or with my knowledge. I don't know what others did.

19th int. Have you had any conversation with Annes A. Lincoln, or have you heard any conversation of his in relation to the title of the patterns in iron which came from Norton? If yea, state what was said, and when and where it was.

[Objected to by Mr. Loring as leading and otherwise.]

19th ans. The first conversation that I had with him was in Taunton, in the month of February, 1849, I think. It was right in front of George and Augustus Wilmarth's store. He told me they had got or was getting up a new stove at his foundry. He said Hartshorn & Ames had contracted for a thousand, and Hartshorn & Ames went to the expense of getting up the wooden patterns, and he was to take off and finish up iron patterns, and have the privilege to make and sell as many stoves as he was a mind to after supplying them. He had a privilege to sell in Rhode Island, to supply his store in Providence, and Bristol county. He said the agreement was, he was not to interfere with Ames' trade. His trade was principally in New Hampshire. Lincoln said the iron patterns were his. Then in November of the same year he told me again that the iron pat-

terns were his, and he had been to a considerable expense in getting them off. This was in Norton, going from Lincoln's house to his furnace. I had no further conversation with Lincoln in relation to the title of the patterns.

20th int. When was the manufacturing of the Granite State Stove commenced at the Fall River Foundry?

20th ans. It was commenced in August, 1849.

21st int. How many stoves were manufactured there during that year, and for whom were they manufactured?

21st ans. I could not state how many. As near as I can recollect —if I had my books I could tell exactly—something less than a thousand. They were made for Hartshorn & Ames. Their name was put on them. Some were made with A. A. Lincoln's name on them, but none with the Fall River Foundry's name. The largest part of them were sent to Hartshorn & Ames. Perhaps fifty were made for A. A. Lincoln. Those with Hartshorn & Ames' name were sent to Boston, directed to them. Those with Lincoln's name were sent, some of them, to William M. Snow & Co., Providence; three were sent to George and Augustus Wilmarth's, Taunton, and P. P. Cunningham had two in Fall River.

22d int. Was the foundry in operation in the month of January, A. D. 1850, and if not, why not?

22d ans. They stopped for two or three reasons. One reason was to take account of stock and to fit up these patterns and fix up things. The busy season was over. We stopped until March. I think we made one casting in February. We were at work one day to take off some patterns.

23d int. For whom were you manufacturing stoves in April, 1850, the time of the commencement of this suit?

23d ans. We were manufacturing stoves and putting "Fall River Foundry" on some of them, and "Hartshorn & Ames" on some of them.

24th int. Do you know whether stoves were manufactured and sent to Hartshorn & Ames by the defendants, after the Marshal came to Fall River to serve the subpœna in this case?

[Objected to.]

24th ans. I don't know the day. We made stoves for Hartshorn & Ames, and sent them, after I heard this precept was served.

25th int. Do you know anything in relation to the filling of orders of plaintiffs for stoves, by the defendants, after the service of the replevin writ? and if so, state your means of knowledge, and all you know about them.

25th ans. There were orders came there from Hartshorn & Ames. The paper produced (annexed and marked B) was one of the orders from Hartshorn & Ames.

26th int. At the time the order you have here identified was received, did the Foundry Company have the stoves to fill the order on hand, or were they to be manufactured?

26th ans. They had a few on hand, but not enough to fill the order. We had to make part of them.

27th int. Do you know whether or not there was a further order for fifty additional stoves made by Hartshorn & Ames upon the defendants, on or about the 29th of March, 1850? if so, state all you know about it.

[Objected to by Mr. Loring, as leading.]

27th ans. I cannot state the day the orders came; there were several orders; in March, April, and May. There were several of them. They kept coming until they got to making them themselves. I cannot state the dates.

28th int. Do you know whether or not the plaintiffs knew whether the stoves ordered in March were to be manufactured after they were ordered? if so, state what you know about their knowledge of this fact.

28th ans. I think he knew about the large order, because when he was there, March 25th, he inquired how many stoves we had. I told him then how many we had on hand.

29th int. State, if you remember, the number of stoves you had on hand at the time March order were received.

29th ans. I don't remember. I kept the journal of the stoves that were sent away by me.

30th int. Whose business was it to ship the stoves manufactured at the foundry, and keep a memorandum of the stoves shipped?

30th ans. It was mine, when I was there, and I was there most of the time; when I was not there, Mr. Coggeshall's clerk, Mr. Henry Bracket, kept the account.

31st int. Did you keep a record of your shipments of stoves to Hartshorn & Ames? if so, will you annex a copy of your consignments to Hartshorn & Ames in the months of March, April and May, 1850?

31st ans. I did keep such a record, and will annex the copy if I can get it. I think we sent some in May; the books will tell.

32d int. State whether or not you ever heard either of the defendants admit that any of the iron patterns were the property of the plaintiffs.

[Objected to by Mr. Loring.]

32d ans. I never heard them admit that the iron patterns were the property of Hartshorn & Ames.

Cros-examined by Mr. Loring, counsel for the Plaintiffs.

1st cross int. Who managed the business at the Fall River Foundry, paid the hands, and hired them?

Ans. to 1st cross int. I generally hired the hands, kept their time, and handed it in to Mr. William Coggeshall's clerk; he generally made up the amounts and paid them.

2d cross int. Was not T. J. Coggeshall in and about the foundry generally as one of the partners in the firm of Cook Borden & Co.?

Ans. to 2d cross int. Mr. T. J. Coggeshall was there but very little in 1849 and 1850. I never heard that he was a partner of the firm of Cook Borden & Co.

3d cross int. Were not the wooden patterns directed to A. A. Lincoln, care of Cook Borden & Co., and was not his name on the box when they came to Fall River?

Ans. to 3d cross int. I think "A. A. Lincoln, Norton," was painted on the box in black paint. Then there was a card directed "Cook Borden & Co., Fall River." It looked as if the box had been previously sent to A. A. Lincoln, Norton; but I don't know how that was.

4th cross int. Were not the iron patterns directed to A. A. Lincoln, care of Cook Borden & Co.?

Ans. to 4th cross int. I could not say, the iron patterns were in the foundry when I came there.

5th cross int. How soon after you went to Fall River did you make stoves from those iron patterns of the Granite State Stove?

Ans. to 5th cross int. We made some of them in August. We made castings, and I think set up some few stoves; but am not sure.

6th csoss int. How many stoves did you make from the iron patterns, before you cast new patterns?

Ans. to 6th cross int. Of the 2's and 3's we made a few, say a dozen, before we took off any patterns.

7th cross int. Were those stoves, which you say in your last answer you made, sent into the market for sale?

Ans. to 7th cross int. They were sent to Hartshorn & Ames. That is, the first stoves were so sent, but soon after we sent three to George and Augustus Wilmarth, and we let Cunningham have two.

8th cross int. How many stoves did you make before you made the alterations in the patterns?

Ans. to 8th cross int. We made but a few, perhaps a dozen, before we made any alterations. We commenced making alterations as soon as we had set up the stoves, and found how they went.

9th cross int. Was any alteration made in the Granite State Stove patterns, so as to change either the principle, design, or configuration, save as to the lettering?

Ans. to 9th cross int. The design was not changed, nor the principle, nor configuration.

10th cross int. Have you ever had occasion, before you went to Fall River, or since, to make patterns from new models, or wooden patterns?

Ans. to 10th cross int. Yes, I've taken off a great many. That is, I have moulded them up, poured the iron into them, and taken the iron patterns from them.

11th cross int. Do you not know that all new wooden patterns,

when first made, are liable to shrink, and thus, is it not often the case, that the first iron patterns therefrom are not good castings?

Ans. to 11th cross int. We generally calculate that we can get the best patterns the first time we use them.

12th cross int. Are not the wooden patterns injured, cracked, or unglued, by being used to mould from?

Ans. to 12th cross int. They are liable to unglue, in putting them into wet sand, if they are not well varnished. There is not much danger if they are well varnished. By using the wooden patterns continually, they would come to pieces, but they might be used once or twice without damage.

13th cross int. Were not the alterations in the wooden patterns made by you under Ames' directions?

Ans. to 13th cross int. The covers were. That is, I did not get the orders direct from Ames. All the directions I ever got from Ames was the evening Ames was there. He told me to get off a perfect set of iron patterns, and I went to work to get off a good-fitting set, as well as a perfect set.

14th cross int. Did T. J., or Wm. Coggeshall, or Cook Borden, give you any directions relative to the patterns, or suggest any alterations therein?

Ans. to 14th cross int. Wm. Coggeshall, nor Cook Borden, never ordered me to alter them. T. J. Coggeshall, when I told him they did not fit well, told me to fix them, and to get Warren, and fix them. I did so. This was after Ames ordered me to fix them. I carried some of them, also, to a cabinet-maker's shop, and got them glued up. The shop was on Bedford Street, Fall River.

15th cross int. To whom were the alterations, and repairs, and the expenses of the same, charged?

Ans. to 15th cross int. To the Fall River Foundry Company. I gave Warren credit for his labor, and think I myself paid the cabinet-maker. I should think the expense and labor on the wooden patterns, and on fitting up the iron patterns, would amount to three or four hundred dollars.

16th cross int. Did you, prior to January, 1850, take off a complete set of iron patterns from the wooden ones?

Ans. to 16th cross int. No, sir, not a complete set. We took off perhaps one-third of the patterns between August and January.

17th cross int. How do you know that the Granite State Stove would not have been successful had this alteration not been made?

Ans. to 17th cross int. I know it by the stove not fitting well. They would not have given satisfaction to purchasers. That's the greatest reason. I don't know this positively; it is my opinion merely.

18th cross int. Was not a duplicate copy in iron made of this stove from the wooden patterns, between January and April, 1850?

Ans. to 18th cross int. I've stated before that we took off, I think, about every piece. The whole set was not taken off between Janu-

ary and April. We took off about every piece betwixt August and April.

19th cross int. Was there at the Fall River Foundry, when Ames came there, two full sets of iron patterns?

Ans. to 19th cross int. No, sir.

20th cross int. Is it a common practice for stove founders to take off from the pieces of another's stove patterns, from which to cast?

Ans. to 20th cross int. I don't know that it is a common practice. I have known it to be done. I have used such patterns.

21st cross int. Between August, 1849, and April, 1850, how many Granite State Stoves were sent from the Fall River Foundry to other persons than Hartshorn & Ames?

Ans. to 21st cross int. I should think somewhere in the neighborhood of fifty. I could not tell the exact number.

22d cross int. Since April, 1850, and to the present time, how many of these stoves have you made at that furnace, and to whom have they chiefly been sent?

[Objected to as incompetent.]

Ans. to 22d cross int. We have sent some to Hartshorn & Ames. I should think we had made six or seven hundred. Ames had some. Others to others. Seavy & Peavy, of Portland, had some. Some went to Connecticut. Nash, of Portland, had some, and some went to Boston.

23d cross int. Was any alteration made in the design or principle of the stove subsequent to October, 1850?

Ans. to 23d cross int. We altered the design of the tops when we made the new tops. I can't state the exact time the alteration was made. It was after Hartshorn & Ames took away the patterns; in the fall of 1850, I think.

24th cross int. Was or not this stove considered a valuable one in the market?

Ans. to 24th cross int. Yes, it gave pretty good satisfaction, I believe, after we altered it and fixed it.

25th cross int. Did you make any memorandum of the conversation you have testified to?

Ans. to 25th cross int. No, sir.

26th cross int. Have you conversed with either of the respondents as to the testimony you were to give in this case; if yea, when, or with whom?

Ans. to 26th cross int. I have conversed some with Thomas Coggeshall, none with Cook Borden, and not much with William Coggeshall. I asked him about the case sometimes. I never conversed about the testimony, except that I have told Thomas and William Coggeshall about what Lincoln told me as to the iron patterns.

27th cross int. When Ames came to the Foundry in March, 1850, what were you doing at the Foundry with the wooden patterns?

Ans. to 27th cross int. I was picking some of them up from the floor and laying them on the bench. I wanted them to appear in

better shape. I knew Ames was coming about five minutes before they come. Coggeshall's son came and said, Hartshorn and Ames is coming with a writ of replevin to take these patterns. I thought I would come and tell you, so that you might be prepared to meet them. I did so that they need not come suddenly upon you. He then said that he must go right back, for his father wanted the horse to come up there with, and passed out.

28th cross int. Were you not directed by some one of these respondents to have the iron patterns in the flasks so that Ames could not find them, or could not get at them, or words to that effect?

Ans. to 28th cross int. No, sir. I stated before what my orders were.

29th cross int. Did T. J. Coggeshall, or Cook Borden, or W. Coggeshall, tell you that it was best to cast an anchor to the windward side?

[Objected to as incompetent by Sheffield.]

Ans. to 29th cross int. T. J. Coggeshall came, I think in March, it might be two weeks before Ames came there after the patterns, and asked me how I had those patterns; wanted to know if they were all fitted up right. I told him we had got the patterns so that they fitted a great deal better than what they did; but I told him there were some more of them ought to be taken off. I told him I should have taken them off, but the wooden patterns were so to pieces that I did not want to go to work to glue them up. Then he says to me, there is some dispute about these old iron patterns with Lincoln. Says, Lincoln claims those old iron patterns; and he further stated: Now, I made a fair bargain with Lincoln, agreed on the price, at eight cents a pound; and, said he, being that you have taken off so many, you had better get the others glued up and take the remainder off, for we may have some trouble with Lincoln about these old patterns, and they ain't worth quarreling about, and you get them all off new, and we should have a spare anchor to the windward, provided we did not settle it with Lincoln.

30th cross int. What has become of the extra pieces of iron patterns made from the wooden ones?

Ans. to 30th cross int. Some of them are there now. Some of them we finished up and used. Some of them we have not finished up.

31st cross int. Who gave orders to have Fall River Foundry Co. put on to the Granite State Stove instead of Hartshorn & Ames?

Ans. to 31st cross int. Thomas J. Coggeshall gave me orders.

32d cross int. Do you know that Hartshorn & Ames knew that you had no stoves on hand to supply their order sent after March, 1850?

Ans. to 32d cross int. I think he must have known, because I told him how many we had, when he was there.

33d cross int. Are Cook Borden & Co. still making the Granite State Stoves; if yea, for what market?

Ans. to 33d cross int. They are not making any now. They have not made any in 1853.

Direct resumed by Mr. Sheffield.

1st int. How soon after the receipt of the March order from the plaintiffs did you fill them by forwarding the stoves?

1st ans. We sent them forward as fast as we could get them out.

[After the counsel in the case, Mr. Loring and Mr. Sheffield, had departed, the books, referred to in interrogatories 31st and 32d, were produced by the deponent, and a copy made of the following entries made in March, April, and May, 1850, the counsel for the plaintiffs consenting that it should be done in his absence, but objecting to the production of the books.]

Consignments of Stoves made to Hartshorn and Ames, copied from Mr. LeBaron's Day Book.

Hartshorn & Ames, Dr.

1850.

March 18th.	To	10	No.	2	G. S.	Stoves,	weight	1919	lbs.
	"	10	"	3	" "	"	"	2211	"
	"	5	"	4	" "	"	"	1393	"
	"				ware,		"	424	"
	"				1 stove jamb,			8	"
March 19th.	"	15	"	2	G. S.	Stoves,	"	2901	lbs.
	"	10	"	3	" "	"	"	2216	"
					ware,		"	394	"

Hartshorn & Ames, Dr.

April 1st.	To	11	No.	2	stoves,	"	2106	lbs.
	"	14	"	3	"	"	3080	"
	"	5	"	4	"	"	1378	"
	"				ware,	"	812	"
	"				Sundry pieces and castings,		41	"

Hartshorn & Ames, Dr.

April 4th.	To	18	No.	2	stoves,	weight,	3466	lbs.
	"	15	"	3	"	"	3373	"
	"	7	"	4	"	"	1909	"
					ware,		675	"

Hartshorn & Ames, Dr.

April 10.	To	13	No.	2	stoves,	weight,	2500	lbs.
		27	"	3	"	"	5984	"
					ware,		669	"

Hartshorn & Ames,			Dr.
April 16.	To 26 No. 2 stoves,	weight,	4989 lbs.
	" 13 " 3 "	"	2861 "
	" 4 " 4 "	"	1102 "
	ware,		691 "

Hartshorn & Ames,			Dr.
April 20.	To 26 No. 2 stoves,	weight,	5024 lbs.
	" 13 " 3 "	"	2881 "
	" 4 " 4 "	"	1093 "
	ware,		696 "

Hartshorn & Ames,			Dr.
April 26.	To 31 No. 2 stoves,	weight,	5873 lbs.
	" 6 " 3 "	"	1294 "
	ware,		567 "

Hartshorn & Ames,			Dr.
May 6th.	To 25 No. 2 stoves,	weight,	4699 lbs.
	" 12 " 2 "	"	2583 "
	ware,		589 "

Hartshorn & Ames,			Dr.
May 27th.	10 No. 4 stoves,	weight,	2738 lbs.
	ware,		214 "

[Examination of the deponent continued.]

Questioned by Commissioner.

Quest. Will you look at the above copies of accounts and state whether or not they are an accurate transcript of entries in the Day Book kept by you of consignments of stoves made to Hartshorn & Ames?

Ans. They are accurate copies. All the stoves that were sent were Granite State Stoves. I was not always particular to state Granite State Stoves, because we all knew what they were.

Cross examined from questions left in writing by Mr. Loring.

1st quest. Were the entries made by you at the time they purport to be?

Ans. Yes, sir.

2d Quest. Do you know that the goods were shipped as therein minueted?

Ans. They were put aboard the cars at Fall River, with cards attached, directed to Hartshorn & Ames, Boston.

JOHN B. LEBARON.

[The right is reserved to a further cross examination, if the introduction of this testimony is thought to require it by Mr. Loring.]

Subscribed and sworn to, May 12th, 1853,
Before me,

THOMAS DURFEE,
Com'r.

Witness fees.

2 days,	$2 50
20 miles,	2 00
	$4 50

Exhibit B.

NASHUA, N. H., March 25, I850.

Messrs. Cook Borden & Co.

Gents: You may send us 150 No. 2 G. S. Cook Stoves,
100 " 3 " " " "
20 " 4 " " " "
at 3⅞ cents per pound for the stoves, and you black them free of charge. The ware at 4 cents a pound. Delivered at our store in Boston. Will pay for them the tenth of January next, 1851.

Be particular about the ware in weighing, we find a little short weight on the ware of the last fifty you sent us. Want them well blacked, and in good order, every stove.

Yours respectfully,
HARTSHORN & AMES.

The following letters, herewith annexed, were presented by Mr. Sheffield, counsel for the respondents, during the taking of Mr. LeBaron's deposition, and their signatures were admitted by Mr. Loring, counsel for the complainants.

THOMAS DURFEE,
Commissioner.

BOSTON, Nov. 9, 1849.

Messrs. T. J. Coggeshall & Co.

Gentlemen: We have got quite a number of Cook Stoves ahead, and we shall not want them sent so fast. We shall not want *any* sent next week, as we have not room to store them.

Yours respectfully,
HARTSHORN & AMES,
By F. O. MUNROE.

What we have seen of the Gridiron are very badly cleaned, we hope to see them better done hereafter.

BOSTON, Dec. 14, 1849.

Fall River Furnace Company:

Gents: Please ship us

6 No. 2 G. S. Cook Stoves,
4 " 4 " " " "
6 Sets 7 inch Covers and Lifters extra,
6 " 8 " " " " "
6 " No. 2 Coal Fixtures,
1 No. 4 Right-hand small Oven Door, as you stand in front of stove,
1 No. 4 Hearth Plate, without the Slide.

Yours, &c.,
HARTSHORN & AMES,
By A. J. BLANCHARD.

BOSTON, Dec. 17, 1849.

Fall River Furnace Company:

Gents: Please send us

5 No. 4 G. S. Cook Stoves,
4 " 3 " " " "
1 " 4 Ash Stopper,
2 Sets No. 2 Dampers.

Respectfully yours,
HARTSHORN & AMES,
By F. O. MUNROE.

P. S.—Last Friday we ordered six No. 2 and four No. 4; we have not received them yet. We directed the order to the Fall River Furnace Company. We don't know as you have received it. The stoves ordered to day are an additional order.

NASHUA, Jan. 4, 1850.

Gentlemen of the Fall River Foundry:

We shall be happy to have you meet us in Boston, at our store, next week, Thursday, the 10th instant, and we will pay you in part for what we have had; and we would like to make arrangements for this year, if it shall be your pleasure. Hope you will find it quite convenient to see us.

Yours truly,
HARTSHORN & AMES.

FALL RIVER FOUNDRY.

1850.

Jan. 10.—Please send 10 No. 2 G. S. Stoves,
10 " 3 " " " without Gridirons,
5 " 4 " " " " "
2 " 2 left hand Side Plate extra,
1 " 2 Bottom Plate "
6 Lifters, or Cover Handles, "
6 Sets in full Covers for No. 2,
6 " " " " " 3, "
2 No. 3 Hearth Fire-bottom Plates.

HARTSHORN & AMES.

BOSTON, Feb. 5, 1850.

Fall River Foundry Company:

Gents: Please ship us at once,
10 No. 2 Granite State Cook Stoves,
1 " 3 Oven Top,
1 " 2 Left-hand Side Plate as you stand in front of stove, and charge the same to

HARTSHORN & AMES,
By A. J. BLANCHARD.

P. S.—2 sets Legs extra.

BOSTON, Feb. 21, 1850.

Fall River Foundry Company:

Gents: Please send 6 No. 2 Granite State Cook Stoves,
6 " 3 " " " "
6 Sets No. 2 Covers,
1 No. 2 Back Oven Plate,
1 No. 4 Left-hand Side, as you stand in front, and the balance of our order last, and charge the same to

HARTSHORN & AMES,
By A. J. BLANCHARD, *Agent.*

BOSTON, March 29, 1850.

Fall River Foundry Company:

Gents: Please send at once,

6 No. 4 Ash Stoppers, that button up in front,
6 " 3 " " " " " " "
6 " 4 " " " " " " "
6 " 2 Center Pieces,
1 " 2 Plate for back side of Oven,
1 " 2 Right-hand Side Plate as you stand in front of stove,
12 New Patent Lifters.

Also please forward those stoves ordered by Hartshorn & Ames, as we are in the immediate want of some of them. We have promised some of No. 4, and we have not got one in store.

And very much oblige,

HARTSHORN & AMES,
By A. J. BLANCHARD.

August 13, 1853. Filed, and opened by consent of parties.
Attest, H. W. FULLER, *Clerk.*

CIRCUIT COURT OF THE UNITED STATES
for the District of Massachusetts.

JAMES HARTSHORN *et al.*
VERSUS
WILLIAM COGGESHALL *et als.*

UNITED STATES OF AMERICA.

CIRCUIT COURT OF THE UNITED STATES
within and for the Massachusetts District.

Massachusetts District, ss.

To William S. Dexter, Esq., of Boston, in said District.

Know ye, That reposing confidence in your wisdom, prudence, and fidelity, we have appointed, and by these presents do authorize and empower you to take the testimony of such witnesses as may be brought before you on behalf of the respondents, such witnesses to be examined on behalf of the said respondents upon oral interrogatories, and to be used in a certain cause now pending in said Court, wherein James Hartshorn *et al.* are plaintiffs, in Equity, *vs.* William Coggeshall *et als.*, defendants.

And to this end, at certain days to be by you appointed for that purpose, to cause said witnesses, as aforesaid, to be brought before you, and each witness, while present before you, to examine carefully on oath touching the premises. And when you shall have taken the

examination as aforesaid, to reduce or cause the same to be reduced to writing, and to be subscribed by each of said witnesses in your presence. And the same, so taken and subscribed, to return, together with this Commission and your doings herein enclosed, sealed, and directed, to the Circuit Court aforesaid, holden at Boston.

In testimony whereof we have caused the seal of the said Circuit Court to be hereunto affixed.

Witness the Honorable Roger B. Taney, at Boston, this seventh day of July, in the year of our Lord one thousand eight hundred and fifty-three.

H. W. FULLER,
Clerk.

UNITED STATES CIRCUIT COURT.

MASSACHUSETTS, July 8, 1853.

JAMES HARTSHORN *et al.*
vs.
WM. COGGESHALL *et als.*

It is agreed that a Commission may issue as of July 7, 1853, to William S. Dexter, Esq., to take depositions in the above cause.

JOHN A. LORING,
for Complainants.

WM. P. SHEFFIELD,
for Defendants.

Deposition of Joseph Swasey, of Taunton, a witness examined on behalf of the Respondents.

1st int. What is your occupation, and where were you employed in July, August, and September, A. D. 1849?

1st ans. I am transportation clerk of the Taunton Branch Railroad Company, at Taunton. I was employed by said Company at Taunton, in July, August, and September, A. D. 1849.

2d. int. [Objected to as leading.] Have you any knowledge of any patterns or castings being shipped from Taunton to Norton by Annes A. Lincoln, in either of those months, to Fall River? If so, when were they shipped, and to whom were they directed? State all the facts within your knowledge in relation to the shipment, if any there was.

2d ans. July 26th, 1849, my entry says that on that day, flasks, patterns, &c., were shipped by A. A. Lincoln, consigned to Cook Borden & Co.; my next entry appears to be on the tenth of August, A. D., 1849, which is of castings, moulding-boards, flasks, and four boxes, the contents of which I don't know. They were directed to Cook Borden & Co., by A. A. Lincoln. According to our usual

course of business, which is to put the name of the consignor first, these entries are made on the book. Nineteen cases out of twenty, I do not see the freight at all. I do not recollect anything relative to these articles or the shipment of them, except what I find on my book. These entries were made at the time they purport to be, and in my hand-writing. On the twentieth of August a small box, containing about one hundred and fifty pounds, was also sent. The way-bill is in my hand-writing, as well as the entries on the book. [The foregoing answer is objected to, as given after reference to, and from the contents of, books referred to.]

3d int. Please state to what book you refer, and explain in what manner the entries thereon are made.

3d ans. Our regular freight-book, in which we keep an account of freight between Fall River and Taunton; the entries are made by me after the freight is reported to me as received, and to be forwarded, according to the report received by me. This report was made by a man employed by us to receive and check in and check out goods, that is, to receive and deliver and forward them.

Cross Interrogatories.

1st cross int. Do you know that those goods were sent or received? Do you know anything save what is on the book?

Ans. to 1st cross int. I know from our manner of business that they were sent and received at Fall River; and I am as well satisfied that they were so, as if I had seen them.

2d cross int. Will you swear that the man employed by you did not make a false report, either by mistake or intentionally?

Ans. to 2d cross int. I'll swear that I think he did not, from the fact that we never heard from the Fall River railroad of our way-bills being incorrect. Our usual custom is to notify each other of any mistake in way-bills.

3d cross int. How do you know that the man knew to whom or by whom the goods were sent?

Ans. to 3d cross int. I only know that people who bring goods to the railroad generally say who they are from and who for. They sometimes leave memoranda, and we forward the way-bills accordingly. The man who receives the goods makes a report to me, generally on a slate, sometimes by a special memorandum, and sometimes verbally.

4th cross int. Are not errors sometimes made in the names of the parties to whom or by whom the goods are sent?

Ans. to 4th cross int. We have had cases of that kind, but not often.

5th cross int. Have you any present recollection of the facts stated, or do you simply state what is on the book?

Ans. to 5th cross int. I simply state what my record shows.

JOS. SWASEY.

Deposition of David Perkins, of Bidgewater, a witness examined on behalf of the Respondents.

1st int. What is your occupation, and where did you reside in March, A. D. eighteen hundred and fifty?

1st ans. I am an attorney at law, and resided then at Fall River.

2d int. State whether or not you were at the Fall River Foundry in Fall River on the 15th day of March, A. D. 1850.

2d ans. I remember being there about that time. I can't say as to the exact day.

3d int. [Objected to.] What was the occasion of your being at the foundry at the time you say you were there?

3d ans. I was called there professionally by Mr. Wm. Coggeshall, one of the respondents.

4th int. Who was at the foundry at the time you say you were there? and what was the occasion of their being there at that time?

4th ans. Mr. Coggeshall was there, and two gentlemen who were strangers to me, and the workmen. Mr. Battelle came in afterwards. Mr. Green, the officer, was also there when I arrived.

5th int. [Objected to.] State what, if anything, was said and done by the plaintiffs and the defendants and their attorneys, in the presence of each other, in relation to certain stove patterns in iron, upon that occasion.

5th ans. I saw there a list of what Mr. Battelle claimed on behalf of his clients, on his replevin writ. He handed it to me, and I handed it back to him. There were certain wooden patterns up stairs, which the officer and his people were boxing up when I got there: some of them were already boxed up. A conversation then took place about certain iron patterns. Mr. Coggeshall having first denied a right to anything there, and forbidding them to take anything. Mr. Battelle and the gentleman whom I didn't know, said that they saw that some of the iron patterns were what they did not claim, and some of them were what they did claim, and they then commenced looking for those which they did claim. Mr. Coggeshall told them that some parts of the patterns they were looking after were made at the foundry, and they said they didn't claim those, and Mr. Coggeshall said he had no objections to showing them those parts that were made there, and those which were not, at the same time denying their right to take anything, and forbidding them to do so, and he ordered his men to show them those parts of the patterns that had been sent there from somewhere else. They then commenced laying out and separating the different parts. Some of both kinds were then in the flask, and some were not. I left them there separating the pieces, and came away. I had no further connection with the matter, and have had none since.

Cross Interrogatories.

1st cross int. Did you take any memorandum of the conversation testified to, at or about the time you say it took place?

Ans. to 1st cross int. I did not.

2d cross int. Do you now testify as to it from your own recollection? and do you swear that it all was said which you have stated?

Ans. to 2d cross int. I have given the substance of the transaction and conversation from my own recollection.

3d cross int. Have you not frequently conferred with some one of the firm of Cook Borden & Co., or their counsel, relative to this conversation? If yea, with whom, and when did you last confer with them?

Ans. to 3d cross int. Never but once, to my recollection. I think that within three or four weeks Mr. Coggeshall came to me and asked me to state what I recollected of the transaction, and I did so. He said that they should want me at some time to testify in the matter. That's all the conversation that I ever had.

4th cross int. Who said that they did not claim those patterns which were made at the furnace?

Ans. to 4th cross int. One of the two gentlemen there whom I did not know. I don't know which. It was one of those who were claiming the patterns.

5th cross int. Did not the parties claim of Cook Borden & Co., all the wooden and iron patterns of the Granite State Stove which were at the Fall River Foundry?

Ans. to 5th cross int. I think they did in the first place: and it was after they perceived from the appearance of them, and after Mr. Coggeshall had told them, that some of the pieces were made at the foundry, that they said they claimed only their own, and didn't want any except what Mr. Lincoln had sent there. Any one could easily distinguish the patterns which had been made there from the others. They were newer in appearance.

6th cross int. Were you not employed by Cook Borden & Co. to defend a claim which was made on them for the wooden and iron patterns of the Granite State Stove?

Ans. to 6th cross int. Mr. Coggeshall came to me and said that as Mr. Sheffield, his counsel, was absent, he wished me to go to the Foundry with him. I went, and had no more to do with the case. I advised Mr. Coggeshall that day relative to the claim made on the patterns. I knew nothing of the merits of the case, and advised Mr. Coggeshall only to forbid their taking any, as I understood from him that he denied their right to any. I did this for the purpose of saving any rights he might have.

7th cross int. Did not Wm. Coggeshall threaten to sue those parties who claimed the new patterns if they took them away?

Ans. to 7th cross int. I don't remember that he did.

8th cross int. Were not some of the patterns, which had been made there, carried away by the parties claiming them?

Ans. to 8th cross int. I don't know.

9th cross int. State what time of day this conversation took place, and how long you were at the foundry at that time?

Ans. to 9th cross int. It was somewhere between twelve and two that I went there. I should think I was there about an hour.

10th cross int. Were the patterns, which you say these parties did not claim, patterns of the Granite State Stove, or of some other?

Ans. to 10th cross int. They were parts of the Granite State Stove.

11th cross int. Were there not patterns of other stoves than the Granite State Stove in the foundry at that time?

Ans. to 11th cross int. I don't know.

12th cross int. State how you know that the patterns which were not claimed, were those of the Granite State Stove.

Ans. to 12th cross int. I know, because that was the stove they were talking about. It was the subject-matter of the conversation. I don't think I had ever heard the name of it before.

DAVID PERKINS.

Deposition of Marshall Warren, a witness examined on behalf of the Respondents.

1st int. What is your age, residence, and occupation, and how long have you been engaged in your present occupation?

1st ans. I am about fifty years old. I reside at Fall River. I am a machinist, and pattern-maker, and have been so between twenty and thirty years.

2d int. Are you acquainted with a stove known and called the "Granite State Stove?" If so, when and where did you first become acquainted with this stove?

2d ans. I am. I first became acquainted with it some time in 1849, about July or August, I think, at the foundry, in Fall River, of Cook Borden & Co.

3d int. Under what circumstances did you become acquainted with this stove?

3d ans. I went there to work on patterns for that stove.

4th int. How long were you employed in 1849, by the Foundry Company, and how long did you work upon these patterns?

4th ans. I was employed there about two or three months. I don't recollect exactly. I can't tell how long I worked on those patterns.

5th int. What was the condition of these patterns when you first saw them at the foundry?

5th ans. Some of them were unglued—in pieces. Some of them were split and warped.

6th int. What was the quality of the stoves made from the iron castings when you first became acquainted with them?

6th ans. They were not first quality. They did not go together as stoves ought to. The patterns were not right, and that was the reason they didn't go together properly. I don't say that all the patterns were wrong. The upper and lower fronts didn't go together. The front was too high. Some of the oven-plates were too small—too narrow. The bottom, and the ash-pits in the bottom were wrong. The ash-pit was not deep enough.

7th int. [The latter part objected to.] State whether or not you made any new patterns for the Granite State Stove; and if so, why did you make them?

7th ans. I did make some. They were wood patterns. I made them because Mr. Coggeshall ordered them.

8th int. [Objected to as leading and otherwise.] Was it practicable to obtain a good stove from the patterns in the condition they were in when you first became acquainted with them?

8th ans. I should think it would take considerable putty to make one made from them tight enough to draw. I don't think a good stove could be made from the wooden patterns unless they were put together. I don't think the iron patterns were just right to make a good stove.

9th int. What new patterns in wood did you make for the Granite State Stove?

9th ans. I made the tops, covers, and centres for three sizes. I don't remember whether I made other pieces or not.

10th int. Why did you make the tops, covers and centres new? Where were the old patterns, and were they, or not, fit to cast from as they were?

10th ans. Because we thought I could make these pieces so as to fit better. The old patterns were there. They were not of the right shape to cast from so as to fit well.

11th int. Did you alter any of the old patterns in iron; and if so, in what particulars did you alter them?

11th ans. I did—I altered one of the backs. I didn't do much iron work myself.

12th int. [Objected to.] State, if you know, what is the meaning of the terms "design and configurations" when they are applied to a stove?

12th ans. They mean the ornamental work on the outside of the stoves.

Cross Interrogatories.

1st cross int. Did you at any time alter the principle, or design, or configuration of this stove, or the pattern?

Ans. to 1st cross int. I altered the moulding round the top—the ornamental part. I made no alteration in the principle.

2d cross int. Were iron patterns made from the wooden ones which you found at the furnace before you made the alterations?

Ans. to 2d cross int. I don't know.

3d cross int. State what you did to the iron patterns.

Ans. to 3d cross int. I heated one of the backs and bent it to make it come together. I spoilt it, and they had to make a new iron one.

MARSHALL WARREN.

UNITED STATES OF AMERICA,
Massachusetts District, ss.

On the seventh day of July, in the year of our Lord eighteen hundred and fifty-three, the aforementioned deponents personally appeared before me, the subscriber, at Boston, in said district, and each witness, while present before me, I did examine carefully on oath touching the premises. And they, being first cautioned and sworn to testify the truth, the whole truth, and nothing but the truth, respectively gave the foregoing depositions; and the said depositions were reduced to writing by me, and after being read to each deponent respectively, were by each of said witnesses subscribed in my presence. Taken by virtue of the annexed commission, and to be used in the suit therein named. And the adverse party was present by his counsel.

WILLIAM S. DEXTER,
Commissioner.

Deponents' fees,	$15 05
Commr's "	8 00
	$23 05

August 13, 1853. Opened by consent of parties this day.

Attest, H. W. FULLER,
Clerk.

CIRCUIT COURT OF THE UNITED STATES
for the District of Massachusetts.

JAMES HARTSHORN *et al.*
vs.
WILLIAM COGGESHALL *et als.*

The Deposition of William Harvey, of Norton, upon Interrogatories by Wm. P. Sheffield, and Cross Interrogatories by John A. Loring.

1st int. What is your age, residence, and occupation?

1st ans. I am thirty-four years of age. Reside in Norton. My occupation is that of a moulder.

2d int. Are you acquainted with Hartshorn & Ames—a firm doing

business in Nashua, N. H.—and with the Fall River Foundry Company—a firm doing business at Fall River?

2d ans. I am some acquainted with Mr. Ames. Have seen Mr. Hartshorn. Don't know the members of the Fall River Foundry Company, unless T. J. Coggeshall is one. I know him.

3d int. Do you know a stove, known and called "The Granite State Stove," and if so, how long have you known it?

3d ans. Have seen such a stove. Can't say how long since.

4th int. Do you know Annes A. Lincoln, of Norton?

4th ans. I do.

5th int. Prior to April, 1850, did you have any conversation with Annes A. Lincoln, in relation to the title of the patterns in iron for the "Granite State Stove?"

[Objected to as leading.]

5th ans. I can't say whether such conversation was prior to April, A. D. 1850. I have had such conversation.

6th int. State what the conversation was which you had with Lincoln.

[Objected to.]

6th ans. Mr. Lincoln said, in substance, frequently, that the patterns belonged to Mr. Ames. I can't say at what time he so said. He has spoken of it very frequently.

7th int. State whether or not you ever heard Mr. Lincoln say that the patterns in iron belonged to him.

[Objected to.]

7th ans. I never did.

8th int. Did Lincoln ever state to you that you must not state what he had said to you about the patterns, or words to that effect?

[Objected to.]

8th ans. He never did.

Upon Cross Examination, by John A. Loring, Esq., Counsel for Hartshorn & Ames.

1st cross int. Did you or not ever work at the Norton furnace? if yea, state when, and in what condition the patterns in wood and iron of the Granite State stove were, when you knew them.

Ans. to 1st cross int. I have worked there several years—in 1848 and '49. The patterns were then in good shape, so far as I worked upon them. The others I did not know about.

Re-examination by Mr. Sheffield for the Fall River Foundry Company.

1st int. What patterns did you work upon at Norton?

1st ans. I worked upon the patterns for the under part of the oven, and the bottom flues, I think. I think I worked upon all the patterns for the oven, but am not positive.

2d int. How many Granite State Stoves were made in Norton, in 1849?

2d ans. I do not know.

WILLIAM HARVEY.

Fees.	
Comm'r fees,	$5 00
Witness fees,	1 00
Summoning same,	35
	$6 35

The Deposition of Alvin D. Lee, of Norton, upon Interrogatories by Wm. P. Sheffield, and Cross Interrogatories by John A. Loring.

1st int. What is your age, residence, and occupation?

1st ans. 38 years old. Norton. Farmer.

2d int. Do you know the Granite State Stove, and if so, how long have you known it?

2d ans. I knew when the patterns came to Norton Furnace, and when they went away.

3d int. Do you know Annes A. Lincoln, of Norton?

3d ans. I do.

4th int. Have you seen the patterns in iron for the stove, as well as the patterns in wood?

4th ans. I have.

5th int. Have you heard Annes A. Lincoln say anything in relation to the title to the patterns in iron? and if so, state to whom he said they belonged.

5th ans. I have heard him say he should have a set of patterns for taking them off.

6th int. Did you hear him say to whom the iron patterns belonged which were taken off by him at the Norton furnace?

[Objected to as leading and otherwise.]

6th ans. I don't remember that I ever did.

7th int. You say you know when the patterns left Norton. State all the circumstances within your knowledge under which they left that place. By whom were they packed? How were they sent off? To whom and where were they directed, and what was the condition of the patterns at the time?

7th ans. Think I packed the iron and wooden ones. Think I boxed them up, and they were put into a wagon to carry to the depot. Think the iron patterns were weighed. Couldn't tell to whom they were directed. Can't tell what condition the iron patterns were in. The wood patterns were in bad shape, some broken and warped up. They were unglued.

8th int. Do you know of the patterns for the stove being altered after they left Norton, and if so, how long after, and in what particulars were they altered?

8th ans. After Ames run the furnace, saw that the flower on the door was altered. Concluded it was the same stove. Don't remember when it was.

Cross Examination by John A. Loring, Counsel for Hartshorn & Ames.

1st cross int. Who informed you that you were to testify in this case, and when?

Ans. to 1st cross int. John LeBaron. Yesterday.

2d cross int. Did not John LeBaron tell you what he wanted you to testify?

Ans. to 2d cross int. No, sir.

3d cross int. Did he not ask you if you had not heard Lincoln say what you have said he did?

Ans. to 3d cross int. He never asked me. I told him I had heard Lincoln say so.

4th cross int. When did you hear Lincoln say what you have said he did in answer to interrogatory five? who was present, and did you take any memorandum of it?

Ans. to 4th cross int. Heard him say it when he was making stoves for Mr. Ames. Have heard him say it a great many times. Can't say who was present, and took no memorandum of it.

5th cross int. Did he not say that he was to have a right to a set of patterns to make stoves for Bristol County only?

Ans. to 5th cross int. Never heard him say that.

6th cross int. Do you swear that he said the words you have repeated, and no others?

Ans. to 6th cross int. I do.

7th cross int. Can you remember the time of year when this was said; if nay, how do you remember what was said?

Ans. to 7th cross int. I do not remember the time of year. I had the patterns to carry around to the moulders a good deal, and he often talked to me about it. I can't state how I remember it. I remember it as I do anything.

8th cross int. Might he not have said that he was to have a set to cast for Bristol County only, and yet you have forgotten it?

Ans. to 8th cross int. I never heard him say anything about that. He had two hearth-plates made—one for Mr. Ames and one for himself—for Bristol Co. and Rhode Island, where he could sell stoves. I can't say how they were marked.

9th cross int. Did not Mr. Lincoln tell you that he had a right to sell these stoves in Bristol County, and Rhode Island?

[Objected to.]

Ans. to 9th cross int. He used to send them there, but I do not recollect his saying anything about the right.

10th cross int. Did Mr. Lincoln ever send any stoves to other places on his own account than to Rhode Island and Bristol County?

Ans. to 10th cross int. I do not know certainly.

ALVIN D. LEE.

Fees.	
Commr's fees,	$5 00
Witness,	1 06
	$6 06

Deposition of William R. Eddy, of Taunton, upon Interrogatories by William P. Sheffield, and Cross Interrogatories by John A. Loring.

1st int. State your age, residence, and occupation, and whether or not you are acquainted with the Granite State Stove.

1st ans. Taunton. Flask and pattern maker. Have seen the stove.

2d int. Did you make any alteration in the configuration of the patterns for said stove? If so, when and what alterations did you make, and what was the occasion of making the alterations?

2d ans. I repaired them. When they arrived at Norton, the second time, they were badly smashed. I cut out the figure and the centre of the door, and put in another. I don't know the occasion of the alteration. Mr. Ames directed me to do it, I think; but can't swear positively. Don't remember any other alteration. Can't say when, neither the year, nor the season of the year.

3d int. State whether or not you made any alterations in the back of the stove.

[Objected to as leading.]

3d ans. I did commence taking off some pieces from the back of the stove, but did not finish it. The patterns were taken away then, and some of them came back finished. I do not remember exactly what I did do myself. The figure in the back of the stove, I cannot say whether I cut out or not. It was cut out, and another put in by somebody. The figures were cut out of all the doors, and new ones put in.

WM. R. EDDY.

Commissioner's fees,	$5 00
Witness fees,	1 00
Summoning same,	35
	$6 35

Deposition of Ebenezer Tinkham.

Interrogatories by William P. Sheffield.

1st int. Please state your residence and occupation. Do you know the Granite State Stove? State what alterations were made in the patterns.

1st ans. Taunton. Moulder. Have you seen the Granite State Stove. The alterations just spoken of by Mr. Eddy were made in 1850. The figures were cut out and others put in, as stated by Mr. Eddy.

Cross examination, by John A. Loring.

1st cross int. Who summoned you to testify? Have you talked with Mr. LeBaron about coming here?

Ans. to cross int. I was summoned by a constable. Have talked with Mr. LeBaron about coming. I think the alterations were done in 1850.

EBENEZER TINKHAM.

Fees.	
Commissioner's fees,	$5 00
Witness fees,	1 00
Summoning same,	35
	$6 35

UNITED STATES OF AMERICA,
Mass. District, ss.

On this tenth day of June, at Taunton, in said District, appeared before me the aforesaid deponents, William Harvey, Alvin D. Lee, William R. Eddy, and Ebenezer Tinkham, and were duly sworn to testify the truth, the whole truth, and nothing but the truth, relating to the cause for which these depositions were taken. Each deponent was then examined, and his testimony taken in writing by me, and by my clerk, by consent of parties, as above written, and each deposition was carefully read by me to the said deponents, and subscribed by them in my presence.

These depositions were all taken at the request of William Coggeshall, to be used in a bill in Equity now pending between James Hartshorn and others, and William Coggeshall and others. The consent of parties was the reason for taking the same; and both parties attended at the taking.

EDMUND H. BENNETT.

Taunton, June 10, 1853.

August 13, 1853. Filed, and opened by consent of parties.
Attest, H. W. FULLER,
Clerk.

CIRCUIT COURT OF THE UNITED STATES
for the District of Massachusetts.

JAMES HARTSHORN *et al.*
vs.
WILLIAM COGGESHALL *et als.*

UNITED STATES OF AMERICA,
District of Massachusetts, ss.

In Equity.

On this twenty-fifth day of May, A. D. one thousand eight hundred and fifty-three, before me, Elias Merwin, a commissioner duly appointed by the Circuit Court of the United States for the District of Massachusetts, personally appeared at my office, in the city of Boston, in said District, Leonard Chase and William F. Pratt, witnesses on the part of the respondents in a certain suit in Equity, now pending in the Circuit Court of the United States for the District of Massachusetts, wherein Hartshorn & Ames are complainants, and T. J. Coggeshall *et als.* are respondents.

And now the said Leonard Chase, having been by me first duly cautioned and sworn to testify the whole truth, did depose and say, in answer to the following interrogatories propounded by Wm. P. Sheffield, Esq., solicitor for the respondents, as follows, viz:—

1st int. What is your age, residence, and occupation?

1st ans. My age is forty-two, residence Milford, N. H., and occupation a trader.

2d int. Have you ever known a stove known and called "The Granite State Stove," made in New Hampshire? If so, state by whom they were designed, who made the patterns in wood, and who the patterns in iron, who manufactured the stoves; and state generally what you know about the manufacture of said stoves.

[Complainants object to this interrogatory.]

2d ans. I have known such a stove. It was designed by Mr. Reuben H. N. Bates, of Providence, R. I. The patterns in wood were made by Mr. Bates; the patterns in iron were made by Putman & Chase, of which firm I am a member. Putnam & Chase manufactured the stoves until 1849, when we sold out to Pratt & Bosworth, and they have manufactured them since. We manufactured from April, 1849, to August 20, 1849. We manufactured but very few, because the patterns were not brought to perfection, and they were not when we sold out. Since then, they have been manufacturing, and it is the principal stove they have manufactured, as I understand from them. Being out of the business, I don't know much about, except that they have manufactured and sold the stoves.

3d int. How were the stoves manufactured by you, and how were the stoves manufactured by Pratt & Bosworth marked and lettered?

[The complainants object to this interrogatory.]

3d ans. The stove manufactured by Putnam & Chase was marked "Granite State," on the hearth-plate, "Putnam & Chase, Milford, N. H." Some time after we sold out to Pratt & Bosworth. They substituted "Pratt & Bosworth" for "Putnam & Chase." That is all the alteration I know of.

4th int. Have you ever been, or are you acquainted with a stove known and called the "Granite State Stove," marked and lettered as if made by Hartshorn & Ames, Nashua, N. H.? If so, how long have you known this stove?

4th ans. I have seen such a stove. I never was very particularly acquainted with it. The first time I ever saw it was in the summer or fall of 1849, after we got ours out. I cannot state definitely.

5th int. Was the internal design of the two stoves alike, or unlike?

[Complainants object to this interrogatory.]

5th ans. So far as the fire-box is concerned, it was a little different. The operation of the stove, the baking, the fire round the stove, was the same, as I understand it.

6th int. If there was any reason for this difference in the internal design of the stove, state what it was.

[Complainants object to this interrogatory.]

6th ans. It was to avoid the claim that Barstow had under his patent of the Bay State Stove, that the fire-box was changed. The difference between the top of Barstow oven and ours was, that his was oval and whole, and ours were in separate parts.

7th int. When did you order the patterns for the Granite State Stove manufactured by you? Were they furnished you, and where were they made?

7th ans. We ordered them in the fall of 1848. We received them about January, 1849. They were made in Providence, R. I.

8th int. How soon after the receipt of the patterns in wood by you from Bates, did you commence taking off the patterns in iron?

8th ans. Immediately after we received the patterns; and we got the stoves out so that we sold the first stove from the first to the twelfth of April, 1849. The first stove we got out was a very poor one.

9th int. How many sizes of the Granite State Stove did you manufacture?

9th ans. Two.

10th int. What was the cost of the patterns in wood which were manufactured by Bates for you?

10th ans. Eighty dollars each size.

11th int. Please state whether or not the patterns for your stove were intended by you to be so designed, that they should be like the patterns for the "Bay State Stove," as near as you could get them, without infringing the patent upon that stove?

[Complainants object to this interrogatory.]

11th ans. That was our design.

Cross Interrogatories.

And, in answer to the following cross interrogatories propounded by J. A. Loring, Esq., solicitor for the complainants, the said deponent further deposeth and saith as follows, namely:—

1st cross int. Who designed the wooden patterns from which you made the Granite State Stove?

Ans. to 1st cross int. Reuben H. N. Bates.

2d cross int. What did you sell out to Pratt & Bosworth, and for how much?

Ans. to 2d cross int. We sold out to them our business and patterns—the foundry business and patterns—for, I think, some five thousand dollars. That is my impression. I think we estimated these patterns, and the right to use them, at about one thousand dollars. I include the patterns in wood and iron. These patterns were not perfected when we sold out.

3d cross int. How many patterns of wood and iron did you sell to Pratt & Bosworth?

Ans. to 3d cross int. We sold to them a whole set in wood and iron for each size. I should think the expense of getting out the iron patterns, including the material, about three hundred dollars.

4th cross int. Have they manufactured largely the stove which you commenced? If yea, how largely?

Ans. to 4th cross int. It has been their leading stove, but I cannot say how many they have manufactured.

5th cross int. When you sold out to Pratt & Bosworth, did you keep copies of the patterns?

Ans. to 5th cross int. We did not.

6th cross int. While you were in the foundry business, did you ever fit up a set of patterns from a stove?

Ans. to 6th cross int. I believe we did from one of the air-tight stoves. The patterns made in that way are not so good as those made from wooden patterns.

7th cross int. Did you not find it very difficult to perfect the patterns of the Granite State Stove?

Ans. to 7th cross int. It is always difficult and expensive to fit up the first set of patterns for any stove. We had difficulty, the usual difficulty, in getting up the patterns for the Granite State Stove.

8th cross int. Did you not know that Hartshorn & Ames were getting up patterns for a stove when you began on yours?

Ans. to 8th cross int. We did not.

9th cross int. Did you not endeavor to learn what stove Hartshorn & Ames were designing, before you finished yours?

Ans. to 9th cross int. No, not that I have any recollection of. If it was intended to inquire whether I knew they were getting up a stove before ours was perfected, I did know.

10th cross int. Did you ever talk with Ames about the Barstow

stove, and did he not tell you that he could get up a better stove than Barstow's?

[Respondents object to this interrogatory.]

Ans. to 10th cross int. I am very confident that I had conversation with Ames about the Barstow stove. I do not recollect of his saying that he could get up a better stove than Barstow's, but I will not say that he did not. I have no recollection of it.

11th cross int. Did you not fail to get out your Granite State Stove to your profit? Did not your stove find less sale than you anticipated?

Ans. to 11th cross int. We did not get it out in season to make a trial of it. I had perfect confidence in the stove during all the time we had it.

12th cross int. Did not Hartshorn & Ames' stove sell to better advantage than yours?

Ans. to 12th cross int. I could not say.

13th cross int. Was not the design and principle of your stove different from that of Hartshorn & Ames'?

Ans. to 13th cross int. The design was different, but the principle about the same.

14th cross int. Did you ever see how the fire was carried round Hartshorn & Ames' stove? If yea, when did you first see it?

Ans. to 14th cross int. I can't describe it. I have seen the stove. The fire-box is made so as to take the wood in the same in the Hartshorn & Ames' stove and in our stove, and in the Barstow stove. When I first saw the stove, I probably examined this. My impression is that I first saw the stove in the summer or early in the fall of 1849.

15th cross int. Do you know what was the operation of the fire round the oven of Hartshorn & Ames' stove? If you say you do know, give your means of knowledge and how long you have known it, when you first knew it.

Ans. to 15th cross int. I could not describe it so as to be understood. I never saw the stove in parts so that I could describe it. I have seen it when it is up. I do not know the operation well enough to describe it.

16th cross int. Why then do you undertake to swear that the operation of the fire round the oven of the Hartshorn & Ames' stove was the same as yours?

Ans. to 16th cross int. I do not know as I have sworn so. We meant the principle of our stove to be the same as the Barstow stove, and we understood Hartshorn & Ames' stove to be very similar in principle with the Barstow.

17th cross int. Do you know of your own knowledge whether the stove of Hartshorn & Ames is of the same principle as yours was?

Ans. to 17th cross int. I think it to be such. My knowledge of the stove is such as not to allow me to say that the principle of the stove is exactly the same, nor that it is different. As we sold out

in August, we didn't give so much attention to the stove as if we had kept on.

18th cross int. Do you swear that you know from a personal examination of Hartshorn & Ames' stove, wherein it resembles yours internally or externally?

Ans. to 18th cross int. I have not such a knowledge of it that I can describe it.

19th cross int. Will you describe the internal construction of your stove?

Ans. to 19th cross int. In regard to the oven, it is under nearly the whole stove, with double doors on either side. The fire-box is at one end, at an elevation of about 8 inches, I should think, and then the hearth of the stove extends along some inches, then the back of the fire-box is at an elevation of 6 or 8 inches, then the top of the oven extends over the remaining part of the oven, I can't say how far. There is a double fire-back; there is the back of the stove, and then another back intervening between that and the fire-back. The fire passes over the oven, and between the back of the stove, and the middle fire-back, then under the oven between the ledges on the bottom of the stove, then up into a flue. My impression is, that there are two ledges at the bottom of the stove, making three flues. I suppose there was a damper to each flue. I have given as good a description as I can without further reflection.

20th cross int. Will you describe the internal construction of Hartshorn & Ames' stove?

Ans. to 20th cross int. I cannot give a description of it. I think the external appearance of Hartshorn & Ames' stove did not resemble ours. I did not know that they, or anybody else, intended to adopt the name "Granite State" for a stove before we adopted it. I don't know how the fire went under the oven of the Hartshorn & Ames' stove. I never looked under the oven. I never saw the stove dissected.

LEONARD CHASE.

Deposition of William F. Pratt.

May 25th, 1853.

And now the said William F. Pratt having been by me first duly cautioned and sworn to testify the whole truth, did depose and say in answer to the following interrogatories, propounded by William P. Sheffield, Esquire, solicitor for the respondents, as follows, namely:—

1st int. State your age, residence, and occupation.

1st ans. I am thirty-five years of age; my residence is Milford, New Hampshire; I am in the foundry business.

2d int. Have you ever known a stove manufactured at Milford, N. H., known and called the Granite State Stove, and if so, when

did you first know it? by whom was it manufactured, who designed the patterns? state all you know about it.

2d ans. I have known such a stove. The first I knew it was when the wooden patterns came, the last of January, 1849. It was manufactured by Putnam & Chase when I first knew it. I don't know who designed the patterns. I was there when the patterns first came and helped take off some of the iron patterns, and helped make the first stove, and bought the first stove that was made. In August, 1849, Bosworth & Pratt, of which firm I was a member, bought out Putnam & Chase, and among the rest of the stock these patterns. We made a thousand or over of these stoves. We manufactured them until sometime last year, and sold what we had made, most of them in New Hampshire and Massachusetts. We sold some in Vermont.

3d int. How were these stoves made by you marked and lettered?

[Complainants objected to this interrogatory.]

3d ans. They were marked "The Granite State Stove, made by Pratt & Bosworth, Milford, N. H."

4th int. Have you ever known a stove known and called "The Granite State Stove," lettered and marked as if made by Hartshorn & Ames, Nashua, N. H., and if so, how long have you known it?

4th ans. I have noticed such a stove. I can't tell the first time I saw it. I never saw or heard of it till after the stove manufactured by Putnam & Chase, and afterwards by us, was got up.

5th int. Are you acquainted with the design and principle of the stove lettered as if made by Hartshorn & Ames?

5th ans. I am not particularly.

6th int. Do you know whether or not the internal arrangement of the stove lettered as if made by Hartshorn & Ames, resembled the internal arrangement of the stove made by you?

[Complainants object to this interrogatory.]

6th ans. There was a little difference under the oven. The partitions between the flues under the oven were different. I think so. I only looked into theirs once. Theirs had side-dampers. About the fire-back I can't tell. I noticed no other difference.

7th int. How soon after you bought out Putnam & Chase before you commenced the manufacture and sale of this stove?

7th ans. We commenced manufacturing them in less than a week. We put them into the market, at first, as fast as we manufactured them.

Cross Interrogatories.

And in answer to the following cross interrogaties, propounded by J. A. Loring, Esq., solicitor for the complainants, the said deponent further deposeth and saith as follows:—

1st cross int. Why did you not continue the manufacture of Granite State Stoves?

Ans. to 1st cross int. We got up a stove that worked better, of different design.

2d cross int. Did your Granite State Stove succeed, or prove a failure?

Ans. to 2d cross int. It worked very well.

3d cross int. Did not the stove of Hartshorn & Ames differ from yours, so that one could be easily distinguished upon first sight?

Ans. to 3d cross int. It did.

Direct Interrogatories.

And in answer to the following direct interrogatory, resumed by W. P. Sheffield, Esq., the said deponent further saith:—

1st direct int. resumed. You say the stoves might be easily distinguished. Do you mean that they would be easily distinguished by a person acquainted with stoves, or do you mean to say that they would be easily distinguished by all persons?

Ans. to 1st direct int. resumed. By all.

WILLIAM F. PRATT.

UNITED STATES OF AMERICA,
District of Massachusetts, ss.

I, Elias Merwin, a Commissioner duly appointed by the Circuit Court of the United States for the District of Massachusetts, under and by virtue of the "Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed February 20, 1812, do hereby certify that the time and place for taking the foregoing depositions were agreed upon by the parties named in the caption thereof; that on the twenty-fifth day of May, A. D. one thousand eight hundred and fifty-three, I was attended by John A. Loring, Esq., solicitor of the complainants, by William P. Sheffield, Esq., solicitor of the respondents, and by the said witnesses; and each of the said witnesses was by me carefully examined and cautioned, and sworn to testify the whole truth, and the testimony by them given, was by me reduced to writing, and thereafter subscribed by the said witnesses in my presence. And, that I am not of counsel or attorney to either of the parties, nor in any way interested in the event of the cause named in the said caption.

ELIAS MERWIN,
U. S. Commissioner.

Commissioner's fees, $12 00.

Copy of Writ.

I certify that the original writ, of which the annexed is a copy, was entered at the June term of the Court of Common Pleas, in and for the County of Bristol, A. D. 1850, and from thence continued to

the next September term of said Court; at which last term "neither party" was entered upon the record in said case.

JAS. SPROAT,
Clerk.

Clerk's office, Taunton, June 10th, 1853.

COMMONWEALTH OF MASSACHUSETTS,
Bristol, ss.

[L. S.] To the Sheriff of our County of Bristol or his Deputy, greeting:—

We command you that you replevy the goods and chattels following, viz: One set of wood patterns for number two Granite State Cook Stove, of the value of one hundred dollars; one set of wood patterns for number three Granite State Cook Stove of great value, to wit, of the value of one hundred dollars; one set of wood patterns for number four Granite State Cook Stove of great value, to wit, of the value of one hundred dollars; one set of iron patterns for number two Granite State Cook Stove of great value, viz: of the value of one hundred dollars; one set of iron patterns for number three Granite State Cook Stove of great value, to wit, of the value of one hundred dollars; and one set of iron patterns for number four Granite State Cook Stove, of great value, to wit, of the value of one hundred dollars, and all of the value of six hundred dollars, belonging to James Hartshorn, of Nashua, in the County of Hillsborough, and State of New Hampshire, and Winslow Ames, of said Nashua, both traders, and partners, jointly negotiating in trade, under the firm of Hartshorn & Ames, now unlawfully detained by Cook Borden, of Tiverton, in the County of Newport, and State of Rhode Island, and William Coggeshall, of Fall River, in said County of Bristol, merchants and partners under the firm of Cook Borden & Co., at Bowenville, so called, at Fall River aforesaid, and them deliver unto the said Hartshorn & Ames; provided the same are not taken and detained upon mesne process, warrant of distress, or upon execution, as the property of the said Hartshorn & Ames; and summon the said Cook Borden and William Coggeshall that they appear before our Justices of our Court of Common Pleas, next to be holden at New Bedford, within and for said County of Bristol, on the second Monday of June next, to answer unto the said Hartshorn & Ames in a plea of replevin, for that the said Cook Borden and William Coggeshall on the fifteenth day of March, the present month, at Fall River aforesaid, unlawfully, and without any justifiable cause, took the goods and chattels of the said Hartshorn & Ames as aforesaid, and them unlawfully detained to this day, to the damage of said Hartshorn & Ames, as they say, the sum of one thousand dollars; provided they, the said Hartshorn & Ames, or some one in their be-

half, shall give bond to the said Cook Borden and William Coggeshall, with sufficient sureties to be approved by you in a sum double the value of the said goods and chattels, to prosecute the said Replevin to final judgment, and to pay such damages and costs as the said Cook Borden and William Coggeshall shall recover against him, and also to return and restore the same goods and chattels, in case such shall be the final judgment. And have you there this writ, with your doings herein, together with the bond you shall take.

Witness Daniel Wells, Esq., at Taunton, the fifteenth day of March, in the year of our Lord one thousand eight hundred and fifty.

JAS. SPROAT,
Clerk.

True copy.

Attest: JAS. SPROAT,
Clerk.

Bristol, ss.

March 15th, 1850.

By virtue of this writ, the within named parties not agreeing upon the value of the goods replevied, I this day appointed John B. LeBaron, Augustus W. Thomas, and George Brightman 2d, three disinterested and discreet men, as appraisers, who were duly sworn by me for the faithful discharge of their duties, and appraised the within named wood patterns at the value of one hundred and fifty dollars, as appears by their certificate hereto annexed. I also took a bond from plaintiffs to the defendants with sufficient sureties approved by me for the sum of two thousand dollars, or a sum equal to double the value of goods and chattels to be replevied, with condition to prosecute the replevin to final judgment, and to pay such damage and costs as the said defendants shall recover against them; and also to return the said property in case such shall be the final judgment, which bond I herewith return. And thereupon I replevied said wood patterns, and delivered the same to Winslow Ames, one of the plaintiffs herein named; but the said iron patterns I did not find, and therefore did not replevin them. And on the 27th day of May, 1850, I summoned the within named Cook Borden and William Coggeshall to appear at Court by giving each of them in hand a true and attested copy of this writ.

C. W. GREEN,
Deputy Sheriff.

Fees.	
2 Services,	$0 60
2 Copies,	1 50
Travel,	0 64
Taking property, &c.	3 00
Appraisers' fees,	1 50
	$7 24

BRISTOL, March 15, 1850.

We, the subscribers, having been requested by Chester W. Greene, a Deputy Sheriff, to appraise the following named property, viz: one set of wood patterns for number two Granite State Cook Stove, one set of wood patterns for number three Granite State Cook Stove, and one set of wood patterns for number four Granite State Cook Stove; and having been duly sworn faithfully and impartially, and according to our best skill and judgment to appraise the same, have viewed, examined, and appraised the same upon our oaths at the sum of one hundred and fifty dollars, and no more.

JOHN B. LEBARON,
AUGUSTUS W. THOMAS,
GEORGE BRIGHTMAN 2d.

Fees, 50 cents each, $1 50.

True copy of Writ, and Appraisers' Certificate and Officer's Return.

Attest: JAS. SPROAT,
Clerk.

UNITED STATES OF AMERICA,
Mass. Dist., ss.

October T., 1855.

I, Henry W. Fuller, Clerk of the Circuit Court of the United States for the First Circuit, Massachusetts District, do hereby certify that the foregoing is a true copy of the record, and of all proceedings in the cause of James Hartshorn & *al.*, in Equity, *vs.* Thomas J. Coggeshall & *als.*, together with a true copy of all the evidence filed in said cause in said Circuit Court.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the said Court, at Boston, in said District, this nineteenth day of December, Anno Domini eighteen hundred and fifty-five, and of the independence of these United States the eightieth.

[SEAL.] H. W. FULLER,
Clerk.

Filed 2 Jan., 1856.